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ABSTRACT

This compendium reproduces all currently effective federal and state legislation, as well as federal court decisions, regarding bilingual education. States are found to fall into one of four categories: (1) those that mandate instruction in English only for public and nonpublic schools (five states); (2) those that mandate English-only instruction for public schools only (two states); (3) those that have no bilingual or English-only provisions (twelve states); and (4) those that have bilingual provisions or that mandate bilingual education (thirty-one states). (JB)

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The Current Status of Bilingual Education Legislation An Update

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Foreword

The Center for Applied Linguistics (CAL) has long been concerned with questions relating to the choice and sequencing of languages for teaching language-minority children in the United States. During the past decade, CAL has convened conferences, published reports, and provided information and feedback to legislators and policymakers. Our staff members have been personally involved in research, technical assistance, and evaluation activities in diverse bilingual education programs in the United States and abroad. CAL unequivocally supports bilingual education as a viable educational alternative for language-minority youngsters as well as for English mother-tongue youngsters in this country.

The Center does not believe, however, that it is appropriate or useful to prescribe only one educational option for all youngsters. We believe that the linguistic, affective, cognitive, and social attributes which a child brings to the learning environment help to define that learning environment. We stress the importance of understanding the community viewpoint, goals, and aspirations vis-a-vis the role of language in personal, occupational, and social development. These should be carefully considered by local educational agencies before they decide which options to offer to different groups of children.

We suggest that a variety of educational options should be made available. Students need to develop the ability to understand, speak, read, and write English so that they can participate actively and effectively in English instructional programs as well as participate fully in all aspects of American society. At the same time, students who desire to understand, speak, read, and write their non-English mother tongue should be encouraged and provided an opportunity to do so. Other students may be encouraged to develop these same skills in a second language.

Thus we would advocate programs of transitional bilingual education for some children; maintenance bilingual education for others; a restoration model directed toward developing "lost" linguistic skills in the student's home or ancestral language for yet others. An enrichment model, intended to capitalize on the fact that careful, empirical, longitudinal research has demonstrated repeatedly that bilingualism is associated with both intellectual advantage as well as greater awareness and tolerance for ethnic diversity, would be appropriate for some students. For others, an appropriate model would be intensive English as a second language. In our view, the local school system, working together with teachers and with parents who must be given an active voice in educational decisions, is best able to develop effective educational programs to meet the needs of a rapidly changing student body.

At the present time (fall 1980), debate about the appropriateness and efficacy of bilingual education has been intensified by introduction of "Proposed Rules for Non-Discrimination Under Programs Receiving Financial Assistance" — the long-awaited revision of the so-called "Lau" regulations. It is impossible to predict what form the final regulations will take or how their impact will be felt. We note that research conducted to date in the United States and abroad has demonstrated conclusively that the benefits which accrue from participation in bilingual education programs are cumulative. In many cases, the lasting benefits — linguistic, cognitive, and affective — do not begin to manifest themselves or to become solidified until the end of the elementary school program. The research also suggests a cumulative and positive impact of bilingual education on all youngsters when they remain in these programs for more than two or three or even five years and when there is an active attempt to provide nurturance and sustenance of their mother tongue in addition to introducing teaching via the language of wider communication.

The task ahead, it seems to me, is to make Americans aware of the value of bilingual education and bilingualism for their children. We must change the public's perception of bilingual education from that of compensatory education to that of enriching education. We hope that the CAL Bilingual Education Series contributes, in some small way, to this task.

Dr. G. Richard Tucker
Director
Center for Applied Linguistics

Introduction

A decade after the passage of the ESEA Title VII Bilingual Education Act, the use of two languages in the classroom remains a highly controversial issue. Various scholars (cf. Heath, 1978; Fishman, 1977) have described the reasons for this controversy, not the least of which is the prevailing belief that bilingualism is a divisive force in society (Bethell, 1979). The unrelenting opposition to bilingual education, as evidenced by editorials in the press, rejects the basic supposition underlying the use of the child's native language in the classroom: that children will have a better chance to learn basic skills if they are taught in a language they can understand rather than spending the school day learning a second language. Reliable research findings that support this supposition are becoming more available (cf. Troike, 1978; Skutnabb-Kangas, 1977; Rosier and Holm, 1980), but additional studies are needed to substantially verify this position. This paucity of studies can be attributed, in large part, to the lack of funds appropriated at the federal and state levels for such research. In the 1978 reauthorization of Title VII, the critical need for research was recognized and a sizable amount of funds was allocated so researchers could tackle some of the critical questions in bilingual education.

It is not surprising that the political battles being fought at the federal level are on-going at the state level. A review of the legislation reveals that states such as California and Texas, which had taken the lead on this issue in the late 1960s, remain in the forefront, despite continuous attempts to modify or repeal the legislation. Concomitantly, five states--Alabama, Arkansas, Nebraska, North Carolina, and West Virginia--which had English-only statutes applicable to both public and nonpublic schools as of 1975 have not changed this policy.

The categories used in the Center for Applied Linguistics' earlier compilation of U.S. bilingual education legislation (Geffert, et al., 1975) have been modified as of 1979. The states fall into four groups:

- (1) English-Only Provisions - applicable to both public and nonpublic schools

Alabama, Arkansas, Nebraska, North Carolina, West Virginia

- (2) English-Only Provisions - applicable to public schools

Delaware, Oklahoma

- (3) No Bilingual or English-Only Provisions

Georgia, Kentucky, Mississippi, Missouri, Montana, Nevada, North Dakota, South Carolina, Tennessee, Vermont, Virginia, Wyoming

- (4) Bilingual Provisions (explicitly or implicitly permit school districts to offer courses in a language other than English)

Alaska, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Washington, Wisconsin

As noted in the 1975 CAL publication, before 1971 the Virgin Islands, Guam, the District of Columbia, Trust Territories of the Pacific, and the Panama Canal Zone "had no statutory provisions specifying the languages of instruction to be used in the classroom." Puerto Rico had mandated that Spanish be used as the medium of instruction, and this law is

still in effect as of this writing. Since the early 1970s, American Samoa, the District of Columbia, Guam, and the Virgin Islands have passed legislation permitting the use of non-English instruction in the classroom.

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At the Federal Level: Court Decisions and Legislation

FEDERAL COURT DECISIONS

Meyer v. Nebraska, 262 U.S. 390 (1923)

Forbidding the teaching in school of any other than the English language until the pupil has passed the eighth grade violates the guarantee of liberty in the Fourteenth Amendment of the Federal Constitution, in the absence of sudden emergency rendering the knowledge of the foreign language clearly harmful.

Ibid; from the opinion of the Court

The Supreme Court of the State has held that the so-called ancient or dead languages "are not within the spirit or the purpose of the act." ...Latin, Greek, Hebrew are not prescribed; but German, French, Spanish, Italian and every other alien speech are within the ban. Evidently the legislature has attempted materially to interfere with the calling of modern language teachers, with the opportunities of pupils to acquire knowledge, and with the power of parents to control the education of their children.

It is said, that the purpose of the legislation was to promote civic development by inhibiting training and education of the immature in foreign tongues and ideals before they could learn English and acquire American ideals; and "that the English language should be and become the mother tongue of all children reared in this State." It is also affirmed that the foreign born population is very large, that certain communities commonly use foreign words, follow foreign leaders, move in a foreign atmosphere and that the children are thereby hindered from becoming citizens of the most useful type, and the public safety is imperiled.

That the State may do much, go very far indeed in order to improve the quality of its citizens, physically, and mentally, and morally, is clear; but the individual has certain fundamental rights which must be respected. The protection of the Constitution extends to all those who speak other languages as well as to those born with English on the tongue. Perhaps it would be highly advantageous if all had a ready understanding of our ordinary speech, but this cannot be coerced by methods which conflict with the Constitution - a desirable end cannot be prompted by prohibited means.

The power of the State to compel attendance at some schools and to make reasonable regulations for all schools, including a requirement that they shall give instructions in English, is not questioned; nor has challenge been made of the State's power to prescribe a curriculum for institutions which it supports.

Pierce v. Society of Sisters, 268 U.S. 571 (1925)

The fundamental theory of liberty upon which all government of this country rests, excludes any general power of the state, to standardize its children by forcing them to accept instruction from public teachers only.

The Oregon Compulsory Education Act... is an unreasonable interference with the liberty of the parents and guardians to direct the upbringing of the children, and in that respect violates the Fourteenth Amendment.

Farrington v. Tokushige, 273 U.S. 284 (1927)

Acts of the Legislature of Hawaii relating to foreign language schools or the teachers

thereof and regulations adopted thereunder by the Department of Public Instruction, taken as a whole, appear to infringe rights, under the Fifth Amendment, of owners of private Japanese schools, and the parents attending them...

The due process clause of the Fifth Amendment affords the same protection to fundamental rights of private school owners, parents and children against invasion by the Federal Government and its Agencies (such as a territorial legislature) as it has been held the Fourteenth Amendment affords against action by a State.

Mo Hock Ke Lok Po v. Stainback, District Court Hawaii, 74 F. Supp. 852 (1944)

(854) The parents' right to have their offspring taught a foreign language is one of the fundamental rights guaranteed by the due process clause of the Fifth and Fourteenth Amendments. (856)... It should be noted however, that to the fundamental parental right to secure for a child a foreign language so recognized in the Berea College and the Society of Sisters cases - that is in the American isolationist period between 1909 and 1926 - in today's world of the United Nations there has been added an equally profound international need for understanding between the peoples of a world of different tongues....(857) The Act... shows on its face a denial of the rights to acquire a foreign language to that half, or nearly half, of Hawaiian children of more than "average intelligence." ...In Hawaii there were 22,357 children in the first four grades. Of these at least 10,000 above average intelligence, the brighter ones, are denied the right then to begin to acquire a foreign language even with a tutor at home. We do not agree that such a denial... is warranted to seek the elimination of the harm it seeks to avoid for those of lesser ability.

Lau v. Nichols, 414 U.S. 563, 39 L. Ed 2d 1, 94 S. Ct 786

Mr. Justice Douglas delivered the opinion of the Court: The District Court found that there are 2,856 students of Chinese ancestry in the school system who do not speak English. Of those who have that language deficiency, about 1,000 are given supplemental courses in the English language. About 1,800, however, do not receive that instruction. This class suit brought by non-English-speaking Chinese students against officials responsible for the operation of the San Francisco Unified School District seeks relief against the unequal education opportunities, which are alleged to violate, inter alia, the Fourteenth Amendment. No specific remedy is urged upon us.

Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instructions to this group in Chinese is another. There may be others. Petitioners ask only that the Board of Education be directed to apply its experience to the problem and rectify the situation....

[T]here is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education.

Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the education program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.

We do not reach Equal Protection Clause argument which has been advanced but rely solely on Section 601 of the Civil Rights Act of 1964, 42 USC Section 2000d....

By Section 602 of the Act HEW is authorized to issue rules, regulations, and orders to make sure that recipients of federal aid under its jurisdiction conduct any federally financed projects consistent with Section 601. HEW's regulations 45 CFR Section 80.3 (b) (1), specify that the recipients may not:

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is in a different manner, from that provided to others under the program;....

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program.

Discrimination among students on account of race or national origin that is prohibited includes "discrimination...in the availability or use of any academic... or other facilities of the grantee or other recipient," *Id.*, Section 80.5 (b).

Discrimination is barred which has that effect even though no purposeful design is presented: a recipient "may not... utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination" or has "the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin." *Id.*, Section 80.3 (b) (2).

It seems obvious that the Chinese-speaking minority receives fewer benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program--all earmarks of the discrimination banned by the regulations. In 1970 HEW issued clarifying guidelines, 35 Fed Reg 11595, which include the following:

Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the education program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational dead end or permanent track.

Concurring opinion by Mr. Justice Stewart

[I]t is not entirely clear that Section 601 of the Civil Rights Act of 1964, 42 USC Section 2000d [42 USCS Section 2000d], standing alone would render illegal the expenditure of federal funds on these schools....

On the other hand, the interpretative guidelines published by the Office of Civil Rights... clearly indicate that affirmative efforts to give special training for non-English-speaking pupils are required by Title VI as a condition to receipt of federal aid to public schools....

The critical question is, therefore, whether the regulations and guidelines promulgated by HEW go beyond the authority of Section 601. Last term, in *Mourning v. Family Publication Service, Inc.*, 411 US 356, 369, 36 L Ed 2d 318, 93 S Ct 1652, we held that the validity of a regulation promulgated under a general authorization provision such as Section 602 of Title VI "will be sustained so long as it is 'reasonably related to the purposes of the enabling legislation.'" *Thorpe v. Housing Authority of the City of Durham*, 393 US 268, 280-281 [21 L Ed 2d 474, 89 S Ct 518] (1969). I think the guidelines here fairly meet that test. Moreover, in assessing the purposes of remedial legislation we have found that departmental regulations and "consistent administrative construction" are "entitled to great weight."

Concurring opinion by Mr. Justice Blackmun

Against the possibility that the Court's judgment may be interpreted too broadly, I stress the fact that the children with whom we are concerned here number about 1,800....

I merely wish to make plain that when, in another case, we are concerned with a very few youngsters, or with just a single child who speaks only German or Polish or Spanish or any other language other than English, I would not regard today's decision, or the separate concurrence, as conclusion upon the issue whether the statute and the guideline require the funded school district to provide special instruction. For me, numbers are at the heart of this case, and my concurrence is to be understood accordingly.

Serna v. Portales Municipal Schools, 499 F. 2d 1149 (10th Cir., 1974)

[T]he factual situation in the instance case is strikingly similar to that found in *Lau*. Appellees are Spanish-surnamed students who prior to this lawsuit were placed in totally English-speaking schools. There is substantial evidence that most of these Spanish-surnamed students are deficient in the English language; nevertheless no affir-

mative steps were taken by the Portales school district to rectify these language deficiencies....

While Spanish-surnamed children are required to attend school, and if they attend public schools the courses must be taught in English, Portales school district has failed to institute a program which will rectify language deficiencies so that these children will receive a meaningful education. The Portales school curriculum, which has the effect of discrimination even though probably no purposeful design is present, therefore violates the requisites of Title VI and the requirement imposed by or pursuant to HEW regulations....

Appellants argue that even if the school district were unintentionally discriminating against Spanish-surnamed students prior to institution of this lawsuit, the program they presented to the trial court in compliance with the court's memorandum opinion sufficiently meets the needs of appellees....

After reviewing the entire record we are in agreement with the trial court's decision. The record reflects a long-standing educational policy by the Portales schools that failed to take into consideration the specific needs of Spanish-surnamed children. After appellants submitted a proposed bilingual-bicultural program to the trial court a hearing was held on the adequacies of this plan. At this hearing expert witnesses pointed out the fallacies of appellants' plan and in turn offered a more expansive bilingual-bicultural plan. The trial court thereafter fashioned a program which it felt would meet the needs of Spanish-surnamed students in the Portales school system. We do not believe that under the unique circumstances of this case the trial court's plan is unwarranted. The evidence shows unequivocally that appellants had failed to provide appellees with a meaningful education. There was adequate evidence that appellants' proposed program was only a token plan that would not benefit appellees. Under these circumstances the trial court had a duty to fashion a program which would provide adequate relief for Spanish-surnamed children. As the Court noted in Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1, 15, 91 S. Ct. 1267, 1276, 28 L. Ed. 2d 554 (1971), "[o]nce a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies." Under Title VI of the Civil Rights Act of 1964 appellees have a right to bilingual education. And in following the spirit of Swann, supra, we believe the trial court, under its inherent equitable power, can properly fashion a bilingual-bicultural program which will assure that Spanish-surnamed children receive a meaningful education.

The New Mexico State Board of Education stresses the effect the decision will have on the structure of public education in New Mexico. It is suggested that bilingual programs will now be necessitated throughout the state wherever a student is found who does not have adequate facility in the English language. We do not share SBE's fears. As Mr. Justice Blackmun pointed out in his concurring opinion in Lau, numbers are at the heart of this case and only when a substantial group is being deprived of a meaningful education will a Title VI violation exist.

FEDERAL CONSTITUTION AND STATUTORY PROVISIONS

U.S. Constitution, Fifth Amendment (1791)

No person shall... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

U.S. Constitution, Fourteenth Amendment (1868)

No State shall... deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d)

No person in the United States shall on grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Title VII--Bilingual Education Programs (1978)

SHORT TITLE

SEC. 701. This title may be cited as the 'Bilingual Education Act.'

POLICY; APPROPRIATIONS

SEC. 702. (a) Recognizing--

- (1) that there are large numbers of children of limited English proficiency;
- (2) that many of such children have a cultural heritage which differs from that of English-speaking persons;
- (3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;
- (4) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;
- (5) that, in addition, children of limited English proficiency and children whose primary language is English benefit through the fullest utilization of multiple language and cultural resources;
- (6) children of limited English proficiency have a high dropout rate and low median years of education; and
- (7) research and evaluation capabilities in the field of bilingual education need to be strengthened,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (a) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (b) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children, with particular attention to children having the greatest need for such programs; and to demonstrate effective ways of providing, for children of limited English proficiency, instruction designed to enable them, while using their native language, to achieve competence in the English language.

(b) (1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated \$200,000,000 for fiscal year 1979; \$250,000,000 for fiscal year 1980; \$300,000,000 for fiscal year 1981; \$350,000,000 for fiscal year 1982; and \$400,000,000 for the fiscal year 1983.

(2) There are further authorized to be appropriated to carry out the provisions of section 721(b)(5) \$12,000,000 for fiscal year 1979; \$14,000,000 for fiscal year 1980; \$16,000,000 for fiscal year 1981; and such sums as may be necessary for each of the two succeeding fiscal years.

(3) From the sums appropriated under paragraph (1) for any fiscal year, the Commissioner shall reserve \$16,000,000 of that part thereof that does not exceed \$70,000,000 for training activities carried out under section 721(a)(3), and shall reserve for those activities not less than 20 per centum of that part thereof which is in excess of \$70,000,000.

(4) The Commissioner shall reserve from the amount not reserved pursuant to paragraph (3) of this subsection such amount as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732.

DEFINITIONS; REGULATIONS

SEC. 703. (a) The following definitions shall apply to the terms used in this title:

(1) The term 'limited English proficiency' when used with reference to individuals means--

- (A) individuals who were not born in the United States or whose native language is a language other than English,
- (B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulation, and
- (C) individuals who are American Indian and Alaskan Native students and who come

from environments where a language other than English has had a significant impact on their level of English language proficiency, subject to such regulations as the Commissioner determines to be necessary;

and, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English.

(2) The term 'native language,' when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 111(c)(2) of title I of the Elementary and Secondary Education Act of 1965.

(4) (A) The term 'program of bilingual education' means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable--

(i) there is instruction given in, and study of, English and, to the extent necessary to allow a child to achieve competence in the English language, the native language of the children of limited English proficiency, and such instruction is given with appreciation for the cultural heritage of such children, and of other children in American society, and, with respect to elementary and secondary school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system; and

(ii) the requirements in subparagraphs (B) through (F) of this paragraph and established pursuant to subsection (b) of this section are met.

(B) In order to prevent the segregation of children on the basis of national origin in programs assisted under this title, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of bilingual instruction may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 per centum. The objective of the program shall be to assist children of limited English proficiency to improve their English language skills, and the participation of other children in the program must be for the principal purpose of contributing to the achievement of that objective. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his level of educational attainment.

(E) An application for a program of bilingual education shall--

(i) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of children of limited English proficiency, in accordance with criteria prescribed by the Commissioner;

(ii) be accompanied by documentation of such consultation and by the comments which the Council makes on the application; and

(iii) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals (of which a majority shall be parents of children of limited English proficiency) which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served.

(F) Parents of children participating in a program of bilingual education shall be informed of the instructional goals of the program and the progress of their children in such program.

(5) The term 'Office' means the Office of Bilingual Education.

(6) The term 'Director' means the Director of the Office of Bilingual Education.

(7) The term 'Council' means the National Advisory Council on Bilingual Education.

(8) The term 'other programs for persons of limited English proficiency' when used in

sections 731 and 732 means any programs within the Office of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the program authorized by section 708(c) of the Emergency School Aid Act, as in effect for fiscal year 1979, section 608(a)(4) of this Act for subsequent fiscal years, and the programs carried out in coordination with the provisions of this title pursuant to section 122(a)(4)(C) and part J of the Vocational Education Act of 1963, and section 306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English proficiency pursuant to sections 6(b)(4) of the Library Services and Construction Act.

(b) The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish, publish, and distribute, with respect to programs of bilingual education, suggested models with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs.

(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English proficiency, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

PART A--FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

BILINGUAL EDUCATION PROGRAMS

SEC. 721. (a) Funds available for grants under this part shall be used for--

(1) the establishment, operation, and improvement of programs of bilingual education;

(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activities as (A) adult education programs related to the purposes of this title, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

(3) (A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

(b) (1) A grant may be made under this section only upon application therefore by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3)(B) of subsection (a) of this section, by eligible applicants as defined in section 723). Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary, and

(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

(2) (A) No order to submit an application in preparation for termination of assistance shall be issued to any local educational agency which shows adequate progress in meeting the goals of this title and which demonstrates a clear fiscal inability to carry on a program without such assistance, if--

(i) there is a continuing presence of a substantial number of students of limited English proficiency in a program under this title in such school or group of schools;

(ii) there has been a recent, substantial increase in the number of students of limited English proficiency who have enrolled in such program; or

(iii) there is an obligation of the local educational agency in which such school or group of schools is located to initiate compliance with an order of a court of the United States or of any State respecting services to be provided for those children, or

a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided for those children.

(B) The Commissioner, after review of program operations by each local educational agency, may, on the basis of a finding, after notice and opportunity for a hearing, that a school or group of schools of such an agency does not have a long-term need for continued assistance under this title issue an order to such agency to prepare and submit within one year a revised application setting forth a schedule under which such school or group will cease receiving such assistance in the fifth year following the year of issuance of such order. Projects and activities for which funds were available prior to October 1, 1978, may continue to receive assistance under this part through September 30, 1983. The amount made available for the third, fourth, or fifth year of any such project or activity after the year of issuance of such an order shall be reduced in accordance with criteria established by the Commissioner designed to ensure the gradual assumption by the applicant of the costs of projects and activities assisted under this title.

(C) The Commissioner shall annually review conditions in any school or group of schools for which an order has been issued under subparagraph (B), and shall suspend and withdraw any order issued under subparagraph (B) if, after such order has gone into effect, one or more of the conditions described in subparagraph (A) occurs, and shall permit the local educational agency involved to revise its application in the light of such conditions.

(D) Any order issued pursuant to subparagraph (B) shall be subject to review by the Commissioner if such review is sought within 60 days of the issuance of such order.

(3) An application for a grant under this part may be approved only if--

(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children of limited English proficiency, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families sought to be benefited by such programs;

(B) in the case of applications from local educational agencies to carry out programs of bilingual education under subsection (a)(1), the Commissioner determines that the applicant shall expend adequate funds for purposes of such programs for auxiliary and supplementary training programs in accordance with the provisions of subsection (a)(3)(B) and section 723;

(C) the Commissioner determines--

(i) that the program will use the most qualified available personnel, including only those personnel who are proficient in the language of instruction and in English, to the extent possible, and the best resources, and will substantially increase the educational opportunities for children of limited English proficiency in the area to be served by the applicant;

(ii) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials; and consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children; and

(iii) that the program includes a plan for evaluation consistent with guidelines prescribed by the Commissioner;

(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner;

(E) the Commissioner determines that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program of bilingual education on a regular basis which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited

English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

(F) the program of bilingual education for which assistance is sought will (i) serve those children most in need of assistance under this title, (ii) provide measurable goals for determining when those children no longer need such assistance, and (iii) provide, from State and local sources, for necessary followup services to sustain the achievement of the children after they have left the program, except that if any child is enrolled in a bilingual program assisted under this title for two years, that child shall have an individual evaluation establishing the need for continued services;

(G) Federal funds made available for the project or activity will be so used as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this clause shall (i) preclude a local education agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children, or (ii) authorize any priority or preference to be assigned by the Commissioner to the funding of the activities under this title; and

(H) the applicant demonstrates that, to the extent possible, personnel recruited and employed to carry out projects and activities under this title are bilingual.

(4) In the consideration of initial applications from local educational agencies to carry out programs of bilingual education under paragraph (1) of this subsection, the Commissioner shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Commissioner shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefited by such programs.

(5) (A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under this title. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this title, including assurances that funds made available under this section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

(B) Except as provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 702 for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies.

(c) In determining the distribution of funds under this title, the Commissioner shall give priority to areas having the greatest need for programs assisted under this title.

(d) Programs of bilingual education under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, and evaluation and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

(e) (1) An application of a local educational agency for assistance under this title

may cover a period of from one to three years. A new application shall be required for any assistance under this title for years subsequent to such period. The Commissioner shall base the decision as to the length of time for which an application will be approved on--

(A) the severity of the problems addressed by the program for which assistance is being sought;

(B) the nature of the activities proposed in the application;

(C) the likely duration of the problems addressed by the application; and

(D) such other criteria, established by the Commissioner, as will assure the most effective use of the available funds in achieving the purposes of this title.

(2) If the Commissioner approves an application of a local educational agency under this title for a period covering more than one fiscal year, no subsequent application shall be required from such agency in any fiscal year during such period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. Payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if--

(A) sufficient appropriations are available for making payments in each such subsequent fiscal year;

(B) the Commissioner determines that the agency is not ineligible for assistance under this title in each subsequent fiscal year; and

(C) the agency demonstrates, by such means as the Commissioner may prescribe, that satisfactory progress is being made toward achieving the objectives of the program for which assistance has been made available under this title, including objectives of section 703(a)(4)(E)(iii) and section 703(a)(4)(F).

(f) If the Commissioner determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, nonpublic schools, as required by paragraph (3)(C)(ii) of subsection (b), the Commissioner shall--

(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

(2) reduce the amount of the grant to such applicant by the amount which is required for the Commissioner to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for a program of bilingual instruction and to carry out such a program for the children.

INDIAN CHILDREN IN SCHOOLS

SEC. 722. (a) For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

(c) The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Commissioner, by September 30, 1980, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

TRAINING

SEC. 723. (a) (1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for--

(A) (i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and

lateral mobility, (II) to train teachers, administrators, counselors, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education; and

(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual education. For the fiscal year ending June 30, 1975, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English proficiency. For each fiscal year after June 30, 1975, and prior to October 1, 1983, the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

(5) The Commissioner shall undertake an ongoing longitudinal study of the impact of recipients of such fellowships on the field of bilingual education, and shall disseminate research undertaken by recipients of such fellowships.

(6) Any person receiving assistance under this subsection shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to the training of teachers and related personnel of bilingual education, as further determined by the Commissioner through regulations. The Commissioner may waive this requirement in extraordinary circumstances.

(7) The Commissioner shall issue regulations specifying such activities as shall constitute training under this section and section 721(a)(3)(B).

(8) An application for a grant or contract for preservice or inservice training activities described in clause (A)(i)(I) and clause (A)(ii)(I) and in subsection (a)(1)(B) of this section shall be considered an application for a program of bilingual education for the purposes of subsection (a)(4)(E) of section 703.

(b) For the purposes of this section, the term 'eligible applicants' means--

(1) institutions of higher education (including junior colleges and community colleges) and private nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency;

(2) local educational agencies; and

(3) State educational agencies.

PART B--ADMINISTRATION

OFFICE OF BILINGUAL EDUCATION

SEC. 731. (a) There shall be, in the Office of Education, an Office of Bilingual Education (hereafter in this section referred to as the 'Office') through which the Commissioner shall carry out his functions relating to bilingual education.

(b) (1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions

relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Commissioner.

(2) The Office shall be organized as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

(c) The Commissioner, in consultation with the Council, shall prepare and, not later than February 1, 1980, 1982, and 1984, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English proficiency. Such report shall include--

(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than October 1, 1977, the results of a survey of the number of such children and persons in the States, and (B) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English proficiency and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs;

(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region; and

(6) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the two succeeding fiscal years.

The Commissioners [sic] shall conduct a study on the extent of the need for these programs in the Commonwealth of Puerto Rico, and shall report the results thereof, together with recommendations, to the President and Congress not later than eighteen months after the enactment of the Education Amendments of 1978.

(d) The Commissioner shall, within six months after the date of the enactment of the Education Amendments of 1978, develop and publish in the Federal Register (1) models for programs of bilingual education which may include suggested teacher-pupil ratios, teacher qualifications, and other factors affecting the quality of instruction offered, and which shall represent a variety of types of such programs, and (2) models for the evaluation of such programs as to the progress made by participants therein attaining English language skills.

(e) (1) The Secretary, in consultation with the Council, shall prepare and, not later than September 30, 1980, submit to the Congress and the President a report identifying the approximate number of children of limited English proficiency in the Nation, by language and by State.

(2) By September 30, 1980, the Secretary shall develop methods for identifying children of limited English proficiency who are in need of bilingual education programs.

(3) By September 30, 1980, the Secretary shall develop evaluation and data gathering models, which take into account linguistic and cultural differences of the child, which consider the availability and the operations of State programs for such children, and shall include allowances for variables which are applicable to programs under this title such as pupil-teacher ratios, teacher qualifications, length of the program, hours of instruction, percentage of children in the classroom who are English dominant and the percentage who have limited English proficiency.

(f) The Secretary shall prepare and submit to the President and to the Congress not

later than December 31, 1981, a report setting forth recommendations on the methods of converting, not later than July 1, 1984, the bilingual education program from a discretionary grant program to a formula grant program to serve students of limited English proficiency and recommendations on whether or not such conversion would best serve the needs of such students. The study required by this subsection shall consider the findings of other studies required to be made under this section, and shall include cost estimates for the phasing in of the formula grant program.

(g) In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Commissioner shall coordinate and closely cooperate with other programs administered by the Office of Education, including such areas as teacher training, program content, research, and curriculum. The Commissioner's annual report under subsection (c) shall include demonstration that such coordination has taken place.

(h) The Commissioner shall insure that the Office of Bilingual Education is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

SEC. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English proficiency, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least two members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The Council shall also include at least two parents of students whose language is other than English and at least one State educational agency representative and one member at large. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English proficiency and the geographic areas in which they reside. Subject to section 448(b) of the General Education Provisions Act, the Advisory Committee shall continue to exist until October 1, 1983.

(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications, and plans under this title, and the administration and operation of other programs for persons of limited English proficiency. The Council shall prepare and, not later than March 31 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 731(c), and the administration and operation of other programs for persons of limited English proficiency.

(d) The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445, of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

PART C--SUPPORTIVE SERVICES AND ACTIVITIES

ADMINISTRATION

SEC. 741. (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with--

- (1) the Commissioner, through the Office of Bilingual Education; and
- (2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act;

in accordance with regulations.

(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate the regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 742.

BILINGUAL EDUCATION RESEARCH AND DEVELOPMENT

SEC. 742. (a) (1) The Commissioner shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private and nonprofit organizations, State educational agencies, and individuals.

(2) The National Institute of Education, after consultation with the Office of Bilingual Education, shall carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education carried out under this title and other programs for persons who have language proficiencies other than English.

(3) The Assistant Secretary shall coordinate research activities of the National Institute of Education, with the Office of Bilingual Education, the National Center for Education Statistics, and other appropriate agencies, in order to develop a national research program for bilingual education.

(b) Research activities authorized to be assisted under this section shall include--

(1) studies to determine and evaluate effective models for bilingual-bicultural programs;

(2) studies to determine (A) language acquisition characteristics and (B) the most effective method of teaching English within the context of a bilingual-bicultural program to students who have language proficiencies other than English;

(3) a five-year longitudinal study in order to measure the effect of this title on the education of students who have language proficiencies other than English;

(4) studies to determine the most effective and reliable methods of identification of students who should be entitled to services under this title;

(5) the operation of a clearinghouse on information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such related programs;

(6) studies to determine the most effective methods of teaching reading to children and adults who have language proficiencies other than English;

(7) studies to determine the effectiveness of teacher training preservice and inservice programs funded under this title;

(8) studies to determine the critical cultural characteristics of selected groups of individuals assisted under this title for purposes of teaching about culture in the program.

(c) In carrying out their responsibilities under this section, the Commissioner and the Director of the National Institute of Education shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

(d) The Assistant Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

(e) The Commissioner and the Director of the National Institute of Education shall, through competitive contracts with appropriate public agencies and private institutions and organizations, develop and disseminate instructional materials and equipment suitable for bilingual education programs. The quality of materials developed pursuant to this subsection shall be comparable to the quality of materials provided in classrooms for English dominant children. In the development of instructional materials for the purpose of this subsection, the availability of materials already in existence from private and public sources shall be taken into account, and special attention shall be given to language groups for whom private organizations are unlikely to develop such materials.

(f) There is authorized to be appropriated for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, \$20,000,000 to carry out the provisions of this section.

PART D--CONTINUED BILINGUAL EDUCATION ASSISTANCE

ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES ELIGIBLE UNDER THE EMERGENCY SCHOOL AID ACT

SEC. 751. (a) (1) The Commissioner, from funds appropriated under subsection (c), shall

carry out a program to meet the needs of minority group children (as such term is defined for purposes of title VI) who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. The Commissioner shall, for fiscal year 1980, allot to each local educational agency an amount which bears the same ratio to such funds as the amount such agency received under section 708(c) of the Emergency School Aid Act for fiscal year 1979, bears to the total amount of funds available under such section. From such allotment the Commissioner is authorized to make grants to and contracts with--

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under section 606 of this Act, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members;

(B) local educational agencies which are eligible for assistance under such section 606 for the purpose of engaging in such activities; or

(C) local educational agencies which are eligible to receive assistance under such section 606, for the purpose of carrying out activities to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Commissioner determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Commissioner shall assure that sufficient funds remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Commissioner determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph the Commissioner shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to ensure training of teachers and other ancillary educational personnel and meets the requirements of section 721(b)(3)(C)(ii).

(2) (A) In order to be eligible for a grant or contract under this subsection--

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project, and (II) have demonstrated to the Commissioner that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board, established pursuant to subparagraph (A), must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 606 of the Act. The Commissioner shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

(b) All programs or projects assisted under subsection (a) shall be part of a program of bilingual-bicultural education.

(c) There are authorized to be appropriated to carry out subsection (a) \$15,000,000 for fiscal year 1980, \$20,000,000 for fiscal year 1981, \$25,000,000 for fiscal year 1982, and \$30,000,000 for fiscal year 1983.

At the State Level:

Statutory and Constitutional Provisions

ALABAMA

Code of Alabama. Title 16 - Education.

Chapter 28. Section 18-28-1.

The terms "private school," "denominational school," and "parochial school," as used in this chapter, shall mean and only include such schools as hold a certificate issued by the state superintendent of education, showing that such school conforms to the following requirements: ... (3) The English language shall be used in giving instruction (School Code 1927, § 302, Code 1940, T. 52, § 299)

ALASKA

Alaska Statutes. Title 14 - Education.

Section 14.30.400. Bilingual-Bicultural Education.

City or borough district school boards and regional educational attendance area boards shall provide a bilingual-bicultural education program for each school in a city or borough school district or regional educational attendance area which is attended by at least eight pupils of limited English-speaking ability and whose primary language is other than English. A bilingual-bicultural education program shall be provided under a plan of service which has been developed in accordance with regulations adopted by the department. Nothing in this section precludes a bilingual-bicultural education program from being provided for less than eight pupils in a school. (Sec 26 ch 124 SLA 1975)

Section 14.30.410. Bilingual-Bicultural Education Fund.

(a) There is in the Department of Education a bilingual-bicultural education fund which is an account in the general fund to receive money appropriated by the legislature for bilingual-bicultural education and to be used for bilingual-bicultural education program implementation and materials development.

(b) The department shall adopt regulations for the determination of entitlement and the distribution of bilingual-bicultural funds to city and borough school districts and regional educational attendance areas and the statewide center. (Sec 26 ch 124 SLA 1975)

ARIZONA

Arizona Revised Statutes Annotated. Title 15 - Education.

Chapter 2, Article 1

§15-202. Conducting of public schools in English language; bilingual instruction

A. All schools shall be conducted in English, except special classes as provided in subsection B of this section.

B. In the first eight grades of any common school district where there are pupils who

have difficulty in writing, speaking or understanding the English language because they are from an environment wherein another language is spoken primarily or exclusively, the district may provide special programs of bilingual instruction. As amended Laws 1969, Ch. 95, §2; Laws 1973, Ch. 169, §1. AG: 56-50-D, 57-64-D, 68-02-21, 69-06-13, 72-27-L.

Chapter 10, Article 10. Bilingual Instruction and Special English Training

§15-1097. Special Education programs

A. There shall be special educational programs to carry out the provisions of this article subject to certification by the state superintendent of public instruction and pursuant to the rules and regulations prescribed by the state board of education relating to the administration of this article.

B. The state board of education shall establish:

1. Testing standards and qualification requirements for students to qualify for each grade level under this article prior to and after completion of each program.
2. Minimum qualifications for instructors to teach under this article.
3. That schools seeking support under this article have suitable facilities.

C. The superintendent of public instruction shall enforce the compliance of school districts with the requirements of subsection B of this section. Added Laws 1969, Ch. 95, §3, as amended Laws 1973, Ch. 169, §5. AG: 69-06-13.

§15-1098. Powers of the governing body of a school district; programs

A. The governing body of a school district may:

1. Provide a special course of bilingual instruction for common school pupils, not to exceed an accumulated period of four years per pupil, to expand the minimum curriculum and satisfy district goals and objectives.
2. Provide a special course of instruction for common school children who are having difficulty in speaking or understanding the English language. This special instruction in the English language shall be in addition to the regular course of instruction prescribed in all school districts.
3. Employ special bilingual teachers for the operation of special classes of oral English instruction or bilingual education.
4. In cooperation with another district or districts, establish special classes of oral English or bilingual instruction for children who are having difficulty with the English language, or children who come from environments where the dominant language is other than English.

B. If the governing body of a school district complies with the provisions contained in this article, the special class or classes may be conducted by the school district in a classroom or school facility owned and maintained by the school district, or the school district may contract with other public agencies, within or without the district, for the use of facilities in which to further the education of children who are having difficulty with oral English language, or children who come from environments where the dominant language is other than English.

C. The governing body of a school district which provides a special course authorized in subsections A and B shall prepare an annual report which explains the program conducted by the district, the funds expended and for what purposes such funds were used during the preceding fiscal year. The report shall include plans for the ensuing fiscal year. The report shall be presented to the state superintendent of public instruction, who shall present all such reports and his recommendations to the legislature during January of each year.

D. For the purposes of this article, "bilingual instruction" means instruction through the media of English and another language for understanding, speaking, reading and writing. Added Laws 1969, Ch. 95, §3, as amended Laws 1972, Ch. 124, §2; Laws 1973, Ch. 169, §6. AG: 69-06-13.

§15-1099. Appropriation and apportionment; approval of program

A. Those students who qualify for a special program of instruction under this article shall receive an appropriation by the legislature apportioned in accordance with the provi-

sions of section 15-1212 to each school district providing special education classes under the provisions of this article an amount specified by the superintendent of public instruction but not exceeding fifty dollars per unit of average daily membership per annum per program for each special education student taught by the district and this appropriation shall be made on an actual per capita per annum basis as shown by the records of the superintendent of public instruction. The apportionment made pursuant to this section shall be in addition to the entitlement to state aid computed pursuant to chapter 16, article 1.

B. The appropriation shall be computed with reference to the estimated number of special education students as provided in section 15-1097 to be taught during the current year for common schools, in classes having a minimum of not less than one hundred twenty minutes nor more than three hundred sixty minutes of instruction per school day.

C. The appropriations and apportionment provided under the terms of this section shall not be granted to the governing body of a school district unless the district complies with the provisions of this article and the conditions and standards prescribed by the superintendent of public instruction pursuant to rules and regulations of the state board of education. A school district program for education of children having difficulty with oral English or children who come from environments where the dominant language is other than English, shall be presented to the state board of education for approval.

D. Funds provided under the terms of this section shall be allocated for all eligible students in grades one through four prior to the allocation of remaining funds to the eligible students in grades five through eight.

E. A student may only qualify for bilingual instruction and special English training after a showing of proof satisfactory to the superintendent that the student is legally present in this state.

F. Per capita appropriations made pursuant to this section shall not be included in the budget cost level of a school district. Added Laws 1969, Ch. 95, §3. As amended Laws 1972, Ch. 124, §3; Laws 1973, Ch. 169, §7; Laws 1974, 1st S.S., Ch. 3, §19. AG: 69-06-13, 70-01-20, 72-09-28.

ARKANSAS

Arkansas Statutes Annotated. Title 80 - Education.

Section 80-1605

The basic language of instruction in the common school branches in all the schools of the State, public and private, shall be the English language only. It shall be the duty of the Commissioner of Education, county superintendent [school supervisor] and city superintendents to see that the provisions of this section are carried out. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined not to exceed twenty-five [\$25.00] dollars, payable into the general school fund of the county. Each day such violation occurs shall be considered a separate offense.

CALIFORNIA

Assembly Bill No. 507.

An act to amend Sections 10106, 44253.5, 52015, 52161, 52162, 52163, 52164, 52164.1, 52164.2, 52164.3, 52164.4, 52164.5, 52165, 52166, 52167, 52168, 52171.6, 52172, 52173, 52175, 52176, 52177, 52178, 54024, and 56001 of, to add Sections 52163.5, 52163.6, and 52164.6 to, to repeal and add Sections 5210, 52171, 52174, and 52178.5 to, and to repeal Sections 52047 and 52169.1 of the Education Code, relating to bilingual education.

SECTION 1. This act shall be known and may be cited as the Bilingual Education Improvement and Reform Act of 1980.

SECTION 2. Section 10106 of the Education Code is amended to read:

10106. The Commission for Teacher Preparation and Licensing shall serve as a clearinghouse for bilingual-crosscultural teaching personnel. The commission shall compile, continually update, and maintain a directory of bilingual-crosscultural teachers

available to teach in bilingual education programs. The directory shall be sent to all school districts on or before March 15 annually. The commission shall, upon request, assist school districts in the recruitment of such teachers.

SECTION 3. Section 44253.5 of the Education Code is amended to read:

44253.5. The Commission for Teacher Preparation and Licensing shall grant certificates of bilingual-crosscultural competence. The purpose of these certificates is to increase the number of persons qualified to provide appropriate bilingual-crosscultural instruction to children whose native language is other than English and who are non- or limited-English speaking. The Commission for Teacher Preparation and Licensing shall also develop an assessment program which will provide a method by which persons holding valid teaching credentials may demonstrate their competence as bilingual-crosscultural teachers. These certificates shall certify, as a minimum, the following:

(a) That the person is competent in both the oral and written skills of a language other than English;

(b) That the person has both the knowledge and understanding of the cultural and historical heritage of the students whose native language is other than English;

(c) That the person successfully can teach the basic teaching authorization in English and in a language other than English, and that person has been formally trained and is competent in the fields of language acquisition and development, structure of modern English, and basic principles of linguistics. The holder of this certificate is authorized to teach students whose native language is other than English.

The Commission for Teacher Preparation and Licensing shall require institutions of higher education to use the same rigorous assessment procedures as the assessor agencies prior to being eligible to recommend individuals for the certificate of bilingual-crosscultural competence.

In order to ensure reliability, validity, and objectivity of assessment, the Commission for Teacher Preparation and Licensing shall develop by July 1, 1981, uniform standards and procedures for assessing bilingual-crosscultural competence as described in subdivisions (a), (b), and (c), and, to the maximum extent feasible, shall adopt standardized assessment instruments for Spanish and Cantonese.

SECTION 3.5. Section 52015 of the Education Code is amended to read:

52015. Each plan shall include:

(a) Curricula, instructional strategies, and materials responsive to the individual educational needs and learning styles of each pupil which enable all pupils to:

(1) Make continuous progress and learn at a rate appropriate to their abilities.

(2) Master basic skills in language development and reading, writing, and mathematics pursuant to Sections 51215 and 51216.

(3) Develop knowledge and skills in other aspects of the curriculum, such as arts and humanities; physical, natural, and social sciences; multicultural education; physical, emotional, and mental health; consumer economics; and career education.

(4) Pursue educational interests and develop esteem for self and others, personal and social responsibility, critical thinking, and independent judgment.

Consideration shall be given to the use of community resources, such as museums, libraries, and communications media, to achieve instructional improvement objectives.

(b) Instructional and auxiliary services to meet the special needs of pupils of limited English proficiency consistent with Article 3 (commencing with Section 52160) of Chapter 7 of Part 28, including instruction in a language such pupils understand; educationally disadvantaged pupils; and pupils with exceptional abilities or needs.

(c) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers as provided in Section 52019.

(d) Improvement of the classroom and school environments, including improvement of relationships between and among pupils, school personnel, parents, and the community, and reduction of the incidence among pupils of violence and vandalism.

(e) Other objectives as established by the council.

(f) The proposed expenditure of allowances provided pursuant to Article 4 (commencing with Section 52045) of this chapter and other state or local funds available to support the school improvement program.

(g) Ongoing evaluation and modification of the school improvement plan by the council based on information regarding:

(1) The degree to which the school is meeting its improvement objectives as assessed by parents, teachers, other school personnel, and pupils.

(2) Student achievement.

(3) Improved school environment as measured by indicators such as (A) the incidence among pupils of absenteeism, suspension, expulsion, and dropouts and the incidence and costs of school violence, vandalism, and theft of school or private property while participating in school activities, (B) pupil attitudes toward school, self, and others, (C) incidence of absenteeism, resignations and requests for transfers among teachers and other school personnel, and (D) satisfaction of teachers, pupils, parents, administrators, and other school personnel with school services and decisionmaking processes.

(4) The degree to which fiscal expenditures meet the criteria of the school improvement plan.

SECTION 4. Section 52047 of the Education Code is repealed.

SECTION 5. Section 52161 of the Education Code is amended to read:

52161. The Legislature finds that there are more than 288,000 school age children who are limited English proficient and who do not have the English language skills necessary to benefit from instruction only in English at a level substantially equivalent to pupils whose primary language is English. Their lack of English language communication skills presents an obstacle to such pupils' right to an equal educational opportunity which can be removed by instruction and training in the pupils' primary languages while such pupils are learning English. The Legislature recognizes that the school dropout rate is excessive among pupils of limited English proficiency. This represents a tremendous loss in human resources and in potential personal income and tax revenues. Furthermore, high rates of joblessness among these dropouts contribute to the unemployment burden of the state.

The Legislature recognizes that a critical need exists for teaching and administrative personnel qualified in the bilingual and crosscultural skills necessary to the instruction of the limited-English-proficient population in the state's school districts. Therefore, the Legislature directs school districts to provide for in-service programs to qualify existing and future personnel in the bilingual and crosscultural skills necessary to serve the pupils of limited English proficiency of this state. Furthermore, the Legislature intends that the public institutions of higher education establish programs to qualify teachers and administrators in the bilingual and crosscultural skills necessary to serve these pupils.

The Legislature finds and declares that the primary goal of all programs under this article is, as effectively and efficiently as possible, to develop in each child fluency in English. The programs shall also provide positive reinforcement of the self-image of participating pupils, promote crosscultural understanding, and provide equal opportunity for academic achievement, including, when necessary, academic instruction through the primary language.

It is the purpose of this article to require California school districts to offer bilingual learning opportunities to each pupil of limited English proficiency enrolled in the public schools, and to provide adequate supplemental financial support to achieve such purpose. Insofar as the individual pupil is concerned, participation in bilingual programs is voluntary on the part of the parent or guardian.

SECTION 6. Section 52162 of the Education Code is amended to read:

52162. The State Board of Education shall adopt such rules and regulations as are necessary for the effective administration of this article.

SECTION 7. Section 52163 of the Education Code is amended to read:

52163. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this article.

(a) "Basic bilingual education" is a system of instruction which builds upon the language skills of the pupil and which consists of, but is not limited to, all of the following:

(1) A structured English language development component with daily instruction leading to the acquisition of English language proficiency, including English reading and writing skills.

(2) A structured primary language component with daily basic skills instruction in the primary language for the purpose of sustaining achievement in basic subject areas until the transfer to English is made.

As the pupil develops English language skills, the amount of instruction offered through English shall increase.

(b) "Bilingual-bicultural education" is a system of instruction which uses two languages, one of which is English, as a means of instruction. It is a means of instruction which builds upon and expands the existing language skills of each participating pupil, which will enable the pupil to achieve competency in both languages.

This instruction shall include all of the following:

- (1) Daily instruction in English language development which shall include:
 - (A) Listening and speaking skills.
 - (B) Reading and writing skills; formal instruction in reading and writing of English shall be introduced when appropriate criteria are met.
- (2) Language development in the pupil's primary language, including oral and literacy skills.
- (3) Reading in the pupil's primary language.
- (4) Selected subjects taught in the pupil's primary language.
- (5) Development of an understanding of the history and culture of California and the United States, as well as an understanding of customs and values of the cultures associated with the languages being taught.

(c) (1) "Experimental bilingual programs" are:

(A) Innovative programs which are consistent with the provisions of this article, including, but not limited to, the requirements for bilingual teaching personnel pursuant to Section 52165, and the requirements for English language and primary language development pursuant to this section. Such programs may include new management approaches, greater emphasis on team teaching, or other appropriate improvements which expand the learning opportunities of pupils of limited English proficiency. Unless waivers of code sections are required, the board need not approve such projects. A description of each such innovative program shall be included with the consolidated application for program funding and an annual evaluation of such programs shall be included in the multiple-funded program evaluation required pursuant to Section 33403.

(B) Planned variation programs for the purpose of comparing and improving language development programs for pupils of limited English proficiency. The primary focus shall be on appropriate instruction for pupils of limited English proficiency whose English skills are superior to their skills in their primary language. Such program shall be authorized by the board in up to 150 classrooms in districts which are representative of the state both geographically and by size. Not more than 15 such classrooms shall be approved in any one district. Such programs shall not result in segregation. For districts proposing a planned variation program, the staffing requirements of Section 52165 may be partially or totally waived by the board provided that the district has an inadequate number of certified bilingual teachers, that certified bilingual teachers are not replaced, that present level of effort is not reduced, and that the proposed language development program is appropriate. For each participating classroom there shall be another similar classroom in the district which has fully implemented and is in compliance with the other provisions of this article.

(2) Initial guidelines, criteria, and procedures for experimental programs shall be developed by the department not later than March 1, 1981. Proposals for planned variation programs shall include, but need not be limited to:

- (A) A clear statement of the purposes, goals, and objectives for planned variation programs and projected outcomes.
- (B) A delineated management, staffing, and instructional plan.
- (C) Pupil identification, diagnosis, and assessment procedures.
- (D) Evidence of qualified bilingual and other instructional staff with demonstrated competence in language development, bicultural or multicultural knowledge of participating pupils, and instructional methodologies.
- (E) Documented parent and community participation and support.
- (F) Use of state and federal funding, where applicable.
- (G) Evaluation component which controls for instructional treatments, instructional engaged time, staffing, pupil language characteristics, achievement, attendance, and related data.

(3) The department shall include in its annual report to the Legislature submitted pursuant to Sections 33405 and 52171.6 the number and nature of experimental bilingual and planned variation programs and progress of participating pupils.

(4) Nothing contained in this subdivision shall be construed to permit the operation of experimental bilingual and planned variation programs contrary to the purposes or intent of this article and other state or federal statutes and regulations promulgated for and on behalf of pupils of limited English proficiency. The primary goal of all such programs shall be to teach the pupil English.

(d) "Secondary level language learning program" is a program which provides (1) a prescriptive English language program that systematically develops a pupil's listening and speaking skills, knowledge of linguistic and grammatical structure leading to proficiency in reading and writing English, (2) primary language instructional support to sustain academic achievement in content subject areas required for high school graduation. The prescriptive English language program shall be based on the diagnosis of a pupil's language skills pursuant to Sections 52164 and 52164.1 and shall be conducted as an integral instructional program of English curriculum for not less than one full period a day for the purpose of providing pupils with minimum English language competencies pursuant to subdivision (e). The primary goal of such programs shall be to teach pupils English.

(e) "Secondary level individual learning program" is an individualized systematic program of instruction which meets the needs of limited-English-proficient pupils and builds upon their language skills in order to develop proficiency in English. This program shall be offered in a manner consistent with the United States Supreme Court decision in *Lau v. Nichols* (414 U.S. 563), the Equal Education Opportunities Act of 1974 (20 U.S.C. Sec. 1701 et seq.) and federal regulations promulgated pursuant to such court decisions and federal statutes. The primary goal of all such programs shall be to teach the pupil English.

(f) "Elementary level individual learning program" is any program of instruction for a pupil of limited English proficiency in which any one of the three program options described in subdivision (a), (b), or (c) is individualized to meet the needs of the pupil of limited English proficiency and is offered in a manner consistent with the requirements of this article. Such instruction shall be offered in a manner consistent with the United States Supreme Court decision in *Lau v. Nichols* (414 U.S. 563), the Equal Education Opportunities Act of 1974 (20 U.S.C. Sec. 1701 et seq.), and federal regulations promulgated pursuant to such court decisions and federal statutes. The primary goal of all such programs shall be to teach the pupil English.

(g) "Primary language" is a language other than English which is the language the pupil first learned or the language which is spoken in the pupil's home.

(h) "Bilingual-crosscultural teacher" means a person who (1) holds a valid, regular California teaching credential and (2) holds either a bilingual-crosscultural certificate of proficiency or other credential in bilingual education authorized by the Commission for Teacher Preparation and Licensing or a bilingual-crosscultural specialist credential. Such a person shall be fluent in the primary language and familiar with the cultural heritage of limited-English-proficiency pupils in the bilingual classes he or she conducts. Such a person shall have a professional demonstrated working knowledge of the methodologies which are necessary to educate effectively those pupils.

(i) "Bilingual-crosscultural teacher aide" means an aide fluent in both English and the primary language of the pupil or pupils of limited English proficiency in a bilingual-bicultural program. Such an aide shall be familiar with the cultural heritage of pupils of limited English proficiency in the bilingual classes to which he or she is assigned.

(j) "Board" means the State Board of Education.

(k) "Superintendent" means the Superintendent of Public Instruction.

(l) "Basic skills" means language arts, including, but not limited to, reading and writing, and mathematics.

(m) "Pupils of limited English proficiency" are pupils who do not have the clearly developed English language skills of comprehension, speaking, reading, and writing necessary to receive instruction only in English at a level substantially equivalent to pupils of the same age or grade whose primary language is English. The determination of which pupils are pupils of limited English proficiency shall be made in accordance with the procedures specified in Sections 52164 and 52164.1. Pupils who have no proficiency in their primary language are not included within this definition.

(n) "Pupils of fluent English proficiency" are pupils whose English proficiency is comparable to that of the majority of pupils, of the same age or grade, whose primary language is English.

(o) "Department" means the Department of Education.

SECTION 8. Section 52163.5 is added to the Education Code, to read:

52163.5. Each of the program options defined in subdivision (a), (b), (c), (d), (e), or (f) of Section 52163 shall include structured activities which promote the pupil's positive self-image and crosscultural understanding.

The Legislature recognizes that language development is a continuum and that pupils in the same classroom may have varying levels of English and primary language skills. The

individualized instruction for each pupil, pursuant to all of the program options, shall be based on a continuing evaluation of the pupil's progress by the classroom teacher, and by others, as appropriate. An English development component is required for all participating pupils. Pupils with greater strength in their primary language shall receive instruction in academic subjects through the primary language as long as such instruction is needed to sustain academic achievement. As pupils develop the skills which allow them to learn more effectively in English, more of their instruction shall be through the English language. A primary language component shall be provided as specified in subdivision (a), (b), (c), (d), (e), or (f) of Section 52163, but shall be less extensive as the pupil progresses into English.

SECTION 9. Section 52163.6 is added to the Education Code, to read:

52163.6. The Legislature recognizes that for many languages there is a shortage of primary language textbooks, curriculum, teacher training programs, and bilingual personnel. The requirement for reading in the primary language may be waived by the board if the district documents the lack of available materials, personnel, and training programs. The department shall maintain a list of available curriculum materials and teacher training programs in all appropriate languages, to verify the waiver requests. The waiver is renewable yearly. Each waiver request shall be signed by the chairperson of the district bilingual committee. The waiver does not eliminate the requirement for primary oral language development.

SECTION 10. Section 52164 of the Education Code is amended to read:

52164. Each school district shall ascertain not later than the first day of March of each year, under regulations prescribed by the State Board of Education, the total number of pupils of limited English proficiency within the district, and shall classify them according to their primary language, age, and grade level. This count shall be known as the "census of pupils of limited English proficiency" and shall consist of a determination of the primary language of each pupil enrolled in the school district and an assessment of the language skills of all pupils whose primary language is other than English.

The census shall be taken by individual, actual count, and not by estimates or samplings. All pupils of limited English proficiency, including migrant and special education pupils, shall be counted. Special language assessment instruments, designated by the superintendent and in compliance with the requirements of subdivision (j) of Section 56001, may be used for special education pupils. The results of this census shall be reported to the Department of Education not later than the 30th day of April of each year. The previous census shall be updated to include new enrollees and to eliminate pupils who are no longer pupils of limited English proficiency and pupils who no longer attend school in the district, and shall be reported pursuant to Section 52164.1. Census data gathered in one school year shall be used to plan the number of bilingual classrooms to be established in the following school year.

SECTION 11. Section 52164.1 of the Education Code is amended to read:

52164.1. The superintendent, with the approval of the State Board of Education, shall prescribe census-taking methods, applicable to all school districts in the state, which shall include, but need not be limited to, the following:

(a) A determination of the primary language of each pupil enrolled in the school district. The primary language of new pupils shall be determined as they enroll. Once determined, the primary language need not be redetermined unless the parent or guardian claims there is an error. Home language determinations are required only once, unless the results are disputed by a parent or guardian.

(b) An assessment of the language skills of all pupils whose primary language is other than English. All the skills listed in subdivision (m) of Section 52163 shall be assessed, except that reading and writing skills need not be assessed for pupils in kindergarten and grades 1 and 2. For those pupils who, on the basis of oral language proficiency alone, are clearly limited English proficient, assessment of reading and writing skills shall be necessary only to the extent required by subdivision (c). This assessment, which shall be made as pupils enroll in the district, shall determine whether such pupils are fluent in English or are of limited English proficiency.

(c) For those pupils identified as being of limited English proficiency, a further assessment shall be made to determine the pupil's primary language proficiency, including speaking, comprehension, reading, and writing, to the extent assessment instruments are available. Parallel forms of the instruments used to determine English proficiency shall

be used, if available. The results of the parallel assessment shall determine the extent and sequence in which English and the primary language will be used in the instruction of basic skills.

A diagnostic assessment in the language designated for basic skills instruction measuring speaking, comprehension, reading, and writing, shall be administered for instructional use at the district level. Such diagnostic assessment shall be updated as necessary to provide a curriculum meeting the individual needs of each pupil of limited English proficiency.

If the assessment conducted pursuant to this subdivision indicates that the pupil has no proficiency in the primary language, further assessment of the pupil's primary language skills including consultation with the pupil's parents or guardians, the classroom teacher, the pupil, or others who are familiar with the pupil's language ability in various environments shall be conducted. If this detailed assessment indicates that the pupil has no proficiency in his or her primary language, then the pupil is not entitled to the protection of this article.

The diagnostic assessment process shall be completed within 90 days after the date of the pupil's initial enrollment and shall be performed in accordance with rules and regulations adopted by the board.

The parent or guardian of the pupil shall be notified of the results of the assessment. The Department of Education shall conduct an equivalency study of all language proficiency tests designated for the identification of pupils of limited English proficiency to insure uniformity of language classifications and to insure the reliability and validity of such tests. Tests, materials, and procedures to determine proficiency shall be selected to meet psychometric standards and administered so as not to be racially, culturally, or sexually discriminatory.

The Department of Education shall annually evaluate the adequacy of and designate the instruments to be used by school districts, and such instruments shall be available by March 15 of each year.

The assessments shall be conducted by persons who speak and understand English and the primary language of the pupils assessed, who are adequately trained and prepared to evaluate cultural and ethnic factors, and who shall follow procedures formulated by the superintendent to determine which pupils are pupils of limited English proficiency, as defined in subdivision (m) of Section 52163. A school district may require that the assessment be conducted by persons who hold a valid, regular California teaching credential and who meet the other qualifications specified in this paragraph. The superintendent may waive the requirement that the assessment be conducted by persons who can speak and understand the pupil's primary language where the primary language is spoken by a small number of pupils and the district certifies that it is unable to comply. This certification shall be accompanied by a statement from the district superintendent that the chairperson of the district advisory committee on bilingual education has been consulted and was unable to assist in the effort to locate appropriate individuals to administer the assessment.

Any district may elect to follow federal census requirements provided that the language skills described in subdivision (m) of Section 52163 are assessed, and provided that such procedures are consistent with Section 52164, the district shall be exempt from the state census procedures described in subdivisions (a) and (b).

SECTION 12. Section 52164.2 of the Education Code is amended to read:

52164.2. The Department of Education shall review the results of the census each year. Where the information provided by a school district appears to be inaccurate or where parents, teachers, or counselors file a formal written complaint that the census is inaccurate, the department shall audit the district's census. Where the department concludes that the census has been incorrectly taken, or the results appear to be inaccurate, the department shall require another census to be taken and the corrected information to be provided.

SECTION 13. Section 52164.3 of the Education Code is amended to read:

52164.3. (a) Each school district shall reassess pupils whose primary language is other than English, whether they are designated as limited English proficient, or fluent English proficient, when a parent or guardian, teacher, or school site administrator claims that there is a reasonable doubt about the accuracy of the pupil's designation.

(b) In all cases of reassessment, the parent or guardian of the pupil shall be notified of the result. This notice shall be given orally when school personnel have reason to think that a written notice will not be understood.

SECTION 14. Section 52164.4 of the Education Code is amended to read:

52164.4. If a previously untested pupil enrolling in a school for the first time speaks a language other than English in the home, such pupil shall be enrolled as a pupil of limited English proficiency in a bilingual program pursuant to subdivision (a), (b), (c), (e), or (f) of Section 52163 at least until that child has been assessed pursuant to Section 52164.

SECTION 15. Section 52164.5 of the Education Code is amended to read:

52164.5. Pertinent information from the assessment of language skills for each pupil whose primary language is other than English shall be retained by the school district as long as the pupil is enrolled in the district. Each school district shall report annually to the Department of Education, and the department shall report to the State Board of Education, the number of pupils (1) whose primary language is other than English; (2) who are of limited English proficiency; (3) whose primary language is other than English who are enrolled in classes defined in subdivision (a), (b), (c), (d), (e) or (f) of Section 52163; (4) the number of such pupils who have become bilingual and literate in English and in their primary language, as appropriate; and (5) the number of such pupils who have met the language reclassification criteria for exit criteria pursuant to Section 52164.6.

SECTION 16. Section 52164.6 is added to the Education Code, to read:

52164.6. Reclassification criteria shall be established by each school district in which pupils of limited English proficiency are enrolled. The criteria shall determine when pupils of limited English proficiency have developed the English language skills necessary to succeed in an English-only classroom. The reclassification process shall, at a minimum, utilize multiple criteria, including, but not limited to, all of the following:

- (a) Teacher evaluation, including a review of the pupil's curriculum mastery.
- (b) Objective assessment of language proficiency and reading and writing skills.
- (c) Parental opinion and consultation.
- (d) An empirically established range of performance in basic skills, based on non-minority English-proficient pupils of the same grade and age, which demonstrates that the pupil is sufficiently proficient in English to succeed in an English-only classroom.

The board shall, no later than April 1, 1981, adopt regulations setting forth standards for language reclassification criteria to be adopted by school districts. The board's regulations shall, at a minimum, prescribe a reclassification process which shall utilize multiple criteria as required by this section.

The superintendent shall, by May 1, 1981, prepare and distribute to each school district in which pupils of limited English proficiency are enrolled, background material and guidelines for language reclassification criteria to be adopted by school districts.

Each school district shall, in following the board's regulations, no later than September 1, 1981, establish criteria for determining when pupils of limited English proficiency enrolled in programs defined in Section 52163 have developed the English language skills of comprehension, speaking, reading, and writing necessary to succeed in an English-only instructional setting.

SECTION 17. Section 52165 of the Education Code is amended to read:

52165. Each pupil of limited English proficiency enrolled in the California public school system in kindergarten through grade 12 shall receive instruction in a language understandable to the pupil which recognizes the pupil's primary language and teaches the pupil English.

- (a) In kindergarten through grade 6;

- (1) Whenever the language census indicates that any school of a school district has 10 or more pupils of limited English proficiency with the same primary language in the same grade level or 10 or more pupils of limited English proficiency with the same primary language, in the same age group, in a multigrade or ungraded instructional environment, the school district shall offer instruction pursuant to subdivision (a), (b), or (c) of Section 52163 for such pupils at the school. Whenever there are pupils of limited English proficiency with different primary languages who do not otherwise trigger the program requirements of subdivision (a), (b), or (c) of Section 52163 or of this subdivision, a language development specialist defined in subdivision (b) may be used.

- (2) Commencing September 1, 1981, and to the extent state or federal categorical funds are available, the following services are required for pupils of limited English proficiency in concentrations of fewer than 10 per grade level: When there are fewer than 10 pupils of limited English proficiency in the same grade, but at least 20 such pupils in the

school with the same primary language, the school district shall provide at least one certified bilingual-crosscultural teacher or teachers on waiver as defined in Section 52178 or 52178.5 and an individualized instruction program as defined in subdivision (f) of Section 52163 for such pupils at the school. If the number of pupils of limited English proficiency in the school exceeds 45, the district shall provide two such teachers. These teachers may be used as resource teachers, team teachers or to provide such other services to pupils of limited English proficiency as the district deems appropriate. These teachers shall be different teachers than those required pursuant to paragraph (1).

(b) The Legislature recognizes that in the past equal educational opportunities have not been fully available to secondary pupils of limited English proficiency. It is the intent of the Legislature to encourage school districts to offer a language learning program pursuant to subdivision (d) of Section 52163. Certified bilingual-crosscultural teachers or, if no such teachers are available, language development specialists assisted by a bilingual aide shall be qualified to provide instruction for such programs. Language development specialists shall be formally trained and competent in the field of English language learning, including second language acquisition and development, structure of modern English, and basic principles of linguistics, and shall meet the culture and methodology competencies established by subdivisions (b) and (c) of Section 44253.5. The Commission for Teacher Preparation and Licensing shall provide for the assessment of language competencies specified herein and shall modify existing culture and methodology competency for language development specialist to insure that they meet the crosscultural and instructional methodologies for pupils being served by such teachers. A teachers of [E]nglish to speakers of other languages certificate from a commission approved teacher training institution of higher education which meets the criteria established by the commission pursuant to Section 44253.5 shall be accepted in lieu of the methodology requirement.

(c) In kindergarten and grades 1 through 12 pupils of limited English proficiency who are not enrolled in a program described in subdivision (a), (b), (c), or (d) of Section 52163, shall be individually evaluated and shall receive educational services defined in subdivision (e) or (f), as appropriate, of Section 52163. Such services shall be provided in consultation with the pupil and the parent, parents, or guardian of the pupil.

(d) As a part of its consolidated application for categorical program funds, each district receiving such funds shall include a specific plan indicating the ways in which the individual learning plans will meet the needs of pupils of limited English proficiency. The plan shall describe all of the following: (1) Procedures used in making the individual evaluation. (2) The pupils' levels of English and primary language proficiency and levels of educational performance. (3) Instructional objectives and scope of educational services to be provided. (4) Periodic evaluation procedures, using objective criteria, to determine whether the instructional objectives are being met.

SECTION 18. Section 52166 of the Education Code is amended to read:

52166. All teachers and aides providing instruction in programs established pursuant to subdivision (a), (b), or, unless waived by the board, (c) of Section 52163, shall meet the criteria of subdivision (h) or (i) of Section 52163. In the event a school operates an individualized program described in subdivision (e) or (f) of Section 52163, such a district which receives categorical aid funds to meet the needs of pupils of limited English proficiency shall certify to the board that sufficient teachers and aides meeting the criteria of subdivision (h) or (i) of Section 52163, as appropriate, are available to the school to ensure that all pupils of limited English proficiency have instructional opportunities in both English and their primary language to meet the intent of this chapter. Other instructional personnel who are not bilingual-crosscultural as defined in subdivisions (h) and (i) of Section 52163 may provide instructional and educational services to pupils enrolled in programs established pursuant to subdivision (a), (b), or (c) of Section 52163 if the principal teachers and aides providing instruction in such programs meet the criteria established in subdivisions (h), unless waived by the board pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 52163, and (i) of Section 52163.

In the development of teacher evaluation procedures pursuant to Article 11 (commencing with Section 44660) of Chapter 1 of Part 25, the governing board of each school district may ensure that a teacher meeting the criteria of subdivision (h) of Section 52163 is evaluated on the basis of his or her classroom performance by an onsite administrator upon the advice of another person meeting the criteria of subdivision (h) of Section 52163.

SECTION 19. Section 52167 of the Education Code is amended to read:

52167. In classes established pursuant to subdivision (a), (b), or (c) of Section 52165, not more than two-thirds nor less than one-third of the pupils shall be pupils of limited English proficiency. The remaining proportion of pupils in such class shall be pupils of fluent English proficiency. However, where there is documented evidence that these proportions cannot be met, the classroom proportions shall, at a minimum, reflect the proportion of the language proficiency classification for the particular grade level in the school and shall not result in segregation. Fluent-English-proficient pupils shall receive basic skills instruction in English and, to the extent possible, be achieving at the district norm.

In no event shall the primary purpose of the program be to teach a foreign language to English-speaking pupils.

The board shall adopt any necessary regulations governing this section within 90 days after January 1, 1981.

SECTION 20. Section 52168 of the Education Code is amended to read:

52168. (a) The superintendent shall ensure that funds appropriated for purposes of this article supplement and do not supplant categorical funds allocated from other local or state sources in meeting the needs of pupils of limited English proficiency.

Categorical aid funds used for the purposes of Section 52165 shall not exceed, on a per pupil basis, the maximum allowance established pursuant to subdivision (b) of Section 54004.5 and regulations implementing that section. Categorical funds used for the purposes of Section 52165 shall include all state and local categorical aid funds which are wholly or partially allocated on the basis of the educational needs of limited-English-proficient pupils.

(b) School districts may claim funds appropriated for purposes of this article for expenditures in, but not limited to, the following categories:

(1) The employment of bilingual-crosscultural teachers and aides; however, funds are available for employment expenditures only to the extent such personnel are employed in providing bilingual services to eligible pupils. School districts applying for these funds shall submit an assurance that personnel hired for this program only supplement and do not supplant district personnel whose positions are funded by the district general fund.

(2) The purchase and development of special bilingual-bicultural teaching materials.

(3) The costs of special in-service training to develop bilingual-crosscultural instructional skills with preference given to teachers and teacher aides employed as part of the bilingual-bicultural program.

(4) Reasonable expenses (which may include transportation, child care, translation services, meals, and training) of parent advisory groups on bilingual-bicultural education, at the school and school district level, in the course of their duties as members of the parent advisory groups. The State Board of Education shall adopt rules and regulations defining reasonable expenses.

(5) Health and auxiliary services to the extent that they meet the direct needs of eligible pupils.

(6) Reasonable district administrative expenses including, but not limited to, costs incurred for the census of pupils of limited English proficiency pursuant to subdivision (a) of Section 52164.1, assessments pursuant to subdivisions (b) and (c) of Section 52164.1, and parent consultation pursuant to subdivision (a) of Section 52173 allowed pursuant to regulations of the board.

(c) Nothing contained in this section shall be interpreted to authorize school districts to reduce per pupil expenditures from local, state, or federal sources for the education of pupils of limited English proficiency.

SECTION 21. Section 52169.1 of the Education Code is repealed.

SECTION 22. Section 52170 of the Education Code is repealed.

SECTION 23. Section 52170 is added to the Education Code, to read:

52170. (a) Each school which has enrolled one or more pupils of limited English proficiency shall prepare a plan to meet the needs of pupils of limited English proficiency in attendance in the school.

(1) Only those schools with 10 or more pupils with the same primary language in a grade level or 20 or more such pupils in the school and which receive consolidated application funding shall submit such plans to the superintendent.

(2) Schools with less than 10 pupils of limited English proficiency receiving consolidated application funding as well as schools with 10 or more pupils of limited English proficiency not receiving such funding shall develop and retain their plan to meet such pupils' needs. Such plan shall be available to the superintendent and the public upon request.

(b) Schools required to submit plans shall prepare an application on forms provided by the Department of Education. Such application shall meet the applicable criteria of the consolidated application regulations and shall include, in addition, all of the following components:

(1) Teacher and aide preservice training which will identify and improve knowledge levels of each teacher and aide in teaching methodology, bilingual-crosscultural philosophy, and education.

(2) An in-service training program for teachers and aides that is linked with an institution of higher education, to the maximum extent feasible, which shall include the establishment of a liaison with a nearby institution of higher education and the solicitation of help from such institution in order to upgrade continually the bilingual-crosscultural education program.

(3) An assurance that all bilingual-crosscultural aides are provided the opportunity to enroll in a career ladder program leading toward a single- or multiple-subject teaching credential and a certificate of competence in bilingual-crosscultural education.

(c) The district's application to the Department of Education shall include all of the individual school applications.

SECTION 24. Section 52171 of the Education Code is repealed.

SECTION 25. Section 52171 is added to the Education Code, to read:

52171. Each district shall submit annually to the Department of Education an evaluation of pupil progress for every program which has been approved pursuant to this article in a form and manner prescribed by the superintendent. The superintendent shall submit to the Legislature by April 15, 1981, a plan for the conduct of such evaluations. This plan shall be developed in consultation with school administrators and teachers involved in the program.

SECTION 26. Section 52171.6 of the Education Code is amended to read:

52171.6. (a) The superintendent shall report annually to the Legislature on bilingual education programs as part of the multiple-funded program evaluation required pursuant to Section 33403 of the Education Code. The Superintendent of Public Instruction shall coordinate the design of school district and state evaluations to minimize the data collection and reporting requirements at the school and district levels. Pupil performance data for bilingual programs may be collected and analyzed on a sample basis with appropriate controls for pupil and instructional program characteristics.

The multiple-funded program evaluation shall include:

(1) Summary of district reports submitted pursuant to subdivision (a) of Section 52170 on the number of identified pupils of limited English proficiency, funds from all sources available for programs to meet the needs of those identified pupils, and the numbers of identified pupils who are not being provided with services pursuant to subdivision (a), (b), (c), (d), (e), or (f) of Section 52163.

(2) Information on bilingual programs conducted pursuant to Section 52165, on all of the following:

(A) Numbers of limited English proficiency and fluent-English-speaking pupils served in the program.

(B) Numbers of teachers holding bilingual credentials or certificates of competency, bilingual aides, and teachers who have waivers.

(C) Expenditures made from bilingual education funds by category of expenditure.

(D) Number of pupils reclassified and district level procedures for reclassification pursuant to Section 52164.6.

(E) A summary report of programs conducted pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 52163.

(3) An assessment of the educational needs of pupils of limited English proficiency and the extent to which such needs are being met from federal, state and local efforts, pursuant to paragraph (6) of subdivision (a) of Section 52177.

(4) For pupils learning a substantive amount of the curriculum through their primary language, basic skills assessment shall be conducted in the primary language only;

assessment of language proficiency shall be conducted in English.

For pupils learning through both English and the primary language, basic skills assessment shall be in English; assessment of language proficiency shall be conducted in English. Pupils participating in the individual learning plan shall be assessed as appropriate pursuant to regulations, instruction, and guidelines to be issued by the superintendent. Assessment of pupils in the primary language shall be required only to the extent that appropriate instruments are available.

(5) It is the intent of the Legislature that evaluation of programs conducted pursuant to this article shall be designed to provide the Legislature, the board, the superintendent, and program administrators at district and school levels with information necessary to assist in all of the following:

(A) Refining and improving policies, regulations, guidelines, and procedures on a continuing basis.

(B) Assessing the overall merits of local programs.

SECTION 27. Section 52172 of the Education Code is amended to read:

52172. Teachers and teacher aides who are not bilingual-crosscultural teachers and aides, as defined by subdivisions (h) and (i) of Section 52163, shall not be permitted to teach in programs authorized pursuant to subdivision (a), (b), or, unless waived by the board, (c) of Section 52163, except as provided in Sections 52166 and 52178, or except as staffing requirements are waived by the board pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 52163. It is the intent of the Legislature that the provisions of Section 44955 shall apply to this section. However, in no case shall a school district dismiss a fully certificated teacher, who previously taught in the bilingual-bicultural program pursuant to a waiver granted under Section 52178, solely on the basis that such waiver has expired. Even if such person is unable to qualify for a bilingual credential or a bilingual-crosscultural certificate of competence, he or she shall retain his or her status, seniority, and rights as a probationary or permanent employee, as the case may be, for the purpose of serving as a monolingual teacher in other programs offered by the school district.

SECTION 28. Section 52173 of the Education Code is amended to read:

52173. (a) Prior to the enrollment of any pupils in any program authorized pursuant to subdivision (a), (b), (c), or (d) of Section 52163, parents or guardians of pupils of all potential participants shall be provided the opportunity for consultation about the placement of their child or ward in such a program. To achieve this purpose, the governing board of the school district in which the pupil resides shall notify by mail or in person the parent, parents, or guardian of the pupil of the fact that their child or ward will be enrolled in a program of bilingual education. The notice shall: (1) contain a simple, nontechnical description of the purposes, method, and content of the program in which their child or ward will be enrolled; (2) inform the parent, parents, or guardian that the parent, parents, or guardian have the right and are encouraged to visit such classes in which their child or ward will be enrolled and to come to the school for a conference to explain the nature and objectives of such education; (3) further inform the parent, parents, or guardian that they have the right, if they so wish, not to have their child or ward enrolled in such an education program; (4) inform the parent, parents, or guardian that they have the opportunity to participate in the school or school district advisory committee, or both. The written notice shall be in English and in the primary language of the pupil.

(b) Any parent or guardian whose child or ward has been or will be enrolled in programs authorized pursuant to subdivision (a), (b), (c), or (d) of Section 52163 shall have the right, either at the time of the original notification of enrollment or at the close of any semester thereafter, to withdraw his or her child or ward from the program, by written notice to the principal of the school in which his or her child or ward is enrolled.

SECTION 29. Section 52174 of the Education Code is repealed.

SECTION 30. Section 52174 is added to the Education Code, to read:

52174. Nothing in this article shall preclude the participation by an individual school district in a consortium or a cooperative in order to provide support and contract services to school districts that receive funds for the purposes of this article.

SECTION 31. Section 52175 of the Education Code is amended to read:

52175. A school district governing board may allow a nonresident pupil of limited English proficiency to enroll in or attend its program authorized pursuant to subdivision (a), (b), (c), or (d) of Section 52163 subject to Chapter 5 (commencing with Section 46600) of Part 26, if the tuition of the child is paid by the school district in which the pupil resides.

SECTION 32. Section 52176 of the Education Code is amended to read:

52176. (a) Each school district with more than 50 pupils of limited English proficiency shall establish a districtwide advisory committee on bilingual education. Parents or guardians, or both, of pupils of limited English proficiency who are not employed by the district shall constitute a majority of the committee, unless the district designates for this purpose an existing districtwide advisory committee on which parents or guardians, or both, of pupils of limited English proficiency have membership in at least the same percentage as their children and wards represent of the total number of pupils in the district, provided that a subcommittee on bilingual-bicultural education on which parents or guardians, or both, of pupils of limited English proficiency constitute a majority is established. The district advisory committee and subcommittee, if applicable, shall be responsible for at least six specific tasks. These tasks shall be to advise the district governing board regarding all of the following:

- (1) Establishment of a timetable for development of a district master plan for bilingual education.
 - (2) Districtwide needs assessment on a school-by-school basis.
 - (3) Establishment of district program goals and objectives in bilingual education.
 - (4) A plan to ensure district compliance with the provisions of Section 52178.
 - (5) Administration of the annual language census.
- (b) Each school with more than 20 pupils of limited English proficiency shall establish a school level advisory committee on which parents or guardians, or both, of such pupils constitute membership in at least the same percentage as their children and wards represent of the total number of pupils in the school. The school may designate for this purpose an existing school level advisory committee, or subcommittee of such an advisory committee, if the advisory committee, or subcommittee where appropriate, meets the criteria stated above.
- (c) Each school advisory committee maintained pursuant to this section shall be responsible for advising the principal and staff in the development of a detailed master plan for bilingual education for the individual school and submitting the plan to the governing board for consideration for inclusion in the district master plan. It shall also be responsible for assisting in the development of the school needs assessment, language census, and ways to make parents aware of the importance of regular school attendance.

The Department of Education shall develop guidelines for the selection of advisory committees established or maintained pursuant to this section by May 1, 1981.

SECTION 33. Section 52177 of the Education Code is amended to read:

52177. (a) Out of funds appropriated for such purposes, the superintendent shall administer the provisions of this article. The responsibilities of the superintendent in administering this article shall include, but are not limited to, ensuring that:

- (1) Sufficient bilingual personnel are available within the Department of Education with familiarity, competency, and proficiency in bilingual-crosscultural instruction to meet the needs of this article and to administer, review, monitor, and evaluate the use of state or federal categorical aid funds allocated to local districts which have been wholly or partially allocated on the basis of the educational needs of pupils of limited English proficiency.
- (2) Department of Education personnel responsible for the administration, review, monitoring, or evaluation of programs operating pursuant to this article have been sufficiently trained to carry out the intent of this article to meet the needs of the pupil of limited English proficiency.
- (3) There is within the Department of Education an administrative unit responsible for bilingual-bicultural educational programs and policies through which the superintendent shall carry out his functions pursuant to this article.
- (4) Districts are providing each pupil of limited English proficiency with an educational opportunity equal to that available to English-speaking pupils; that they are making appropriate use of local and state general funds to provide bilingual-crosscultural teachers and other required services; and that an annual report is made to the Legislature regarding the extent to which this article has been implemented by school districts throughout the state. All districts in which pupils of limited English proficiency are

enrolled shall be reviewed through an onsite technical assistance, monitoring, and enforcement process at least once every three years.

(5) A plan is developed by April 1, 1981, to provide for adequate monitoring of school and school district compliance with the provisions of this article.

(6) An annual evaluation of bilingual needs and programs within the state is developed for submission to the Legislature and to the Governor. The annual evaluation shall include a state assessment of the educational needs of pupils and other persons who are limited English speaking, and of the extent to which such needs are being met from federal, state and local efforts.

(b) The Department of Education shall within 90 days after June 1, 1981, prepare and implement a coordinated plan of technical assistance to school districts in curriculum materials and development, instructional methodologies, pupil identification, and basic evaluation techniques to assist school districts in providing quality bilingual learning programs to pupils of limited English proficiency.

SECTION 34. Section 52178 of the Education Code is amended to read:

52178. All principal teachers providing instruction in programs defined by subdivision (a), (b), or, unless waived by the board, (c), and insofar as teachers are available, (d) of Section 52163 shall be bilingual-crosscultural teachers as defined pursuant to subdivision (h) of Section 52163, or shall be bilingual in English and the primary language of the pupils of limited English proficiency in the bilingual class and hold an internship credential or an emergency bilingual-crosscultural credential.

In recognition of the shortage of qualified bilingual-crosscultural teachers, a school district may request a renewable two-year waiver from the board for each teacher who is not bilingual-crosscultural but who is enrolled and participating in a program leading to a bilingual specialist credential or a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5. Such a teacher, with the assistance of a bilingual-crosscultural aide, may teach in a program of bilingual instruction mandated by Section 52165 for not more than four school years commencing with the first year that the teacher was under waiver, so long as continuing progress toward the certificate of competence is indicated in accordance with this section.

Each school district which requests waivers shall file its application for such a waiver with the State Board of Education on or before October 1 of the appropriate year, and shall give assurance that all teachers receiving such a waiver are, or will be, participating in an appropriate program leading to a bilingual specialist credential or a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5 during each of the school years for which the waiver is granted, and shall state who is in charge of the program and which institution or district is conducting it. Existing state and federal staff development funds may be used for training and assessment leading to a bilingual specialist credential or a bilingual-crosscultural certificate of competence. The district shall further assure that all teachers receiving such a waiver have been notified in writing by the school board as to their obligations while under waiver. The waiver application shall list the names of the teachers who are to receive the waiver, the school to which they are assigned, and the date by which the teacher is expected to obtain a bilingual specialist credential or the certificate of competence. Each district, whether or not it requests a waiver, shall report the number of classrooms for which a bilingual teacher is required pursuant to Section 52165, the total number of certificated bilingual-crosscultural teachers employed by the district in classroom positions, and, in the event the district requests a waiver, the total number of teachers for whom a waiver is being requested. If a district hires new teachers, no waiver shall be granted unless the board finds that the district made a good faith effort to recruit and hire bilingual-crosscultural teachers including contacting the bilingual-crosscultural teachers. As a part of such good faith effort, districts shall contact those bilingual-crosscultural teachers who indicate they are seeking employment as stated in the annual list of bilingual-crosscultural teachers prepared by the Commission for Teacher Preparation and Licensing. Districts needing bilingual-crosscultural teachers shall also request assistance from the clearinghouse maintained by the commission pursuant to Section 10106.

All waivers granted pursuant to this section shall expire not later than the end of the fourth school year the teacher has been on waiver, or June 30, 1984, whichever shall occur first. However, all teachers teaching in a bilingual classroom with a waiver approved by the board shall have at least four years to complete their bilingual certification effective from the first year the waiver was approved.

It is not the intent of the Legislature, by amending this section in the 1979-80

Regular Legislative Session, to expand the requirements for the certificate of bilingual-crosscultural competence.

Commencing September 1, 1981, all waiver applications, shall include certification by an assessor agency approved by the Commission for Teacher Preparation and Licensing, that the applicant teacher is making the following progress toward meeting the requirements for the bilingual-crosscultural certificate of competence:

- (a) For the teacher who is just entering the bilingual program: no requirement.
- (b) For the teacher beginning his or her second year on waiver: competence in language, culture, or methodology, as required by subdivision (a), (b), or (c) of Section 44253.5.
- (c) For the teacher beginning his or her third year on waiver: no additional requirements.
- (d) For the teacher beginning his or her fourth year on waiver: competence in two of the three areas required by Section 44253.5. These certifications shall be provided to the Department of Education on an annual basis.

In lieu of these certifications of competence in culture or methodology, as required by subdivision (b) or (c) of Section 44253.5, the district may submit a statement from a bilingual teacher training institution approved by the Commission for Teacher Preparation and Licensing that the coursework for that competence has been completed. To receive a bilingual-crosscultural certificate of competence, an applicant shall pass the examinations for all three areas of competence required by Section 44253.5.

The Commission for Teacher Preparation and Licensing shall contract with approved assessor agencies to assess separately each of the three competencies required in Section 44253.5. The commission shall arrange for assessments if approved assessor agencies cannot provide them. However, the commission may directly assess these competencies if the commission has been unable to arrange an assessment, and if a staff member is qualified to perform the assessment.

SECTION 35. Section 52178.5 is added to the Education Code, to read:

52178.5. An extension of a waiver granted pursuant to Section 52178 shall be provided until July 1, 1984, for a teacher teaching in those languages where there is no preparation and examination available for obtaining a certificate of competence for bilingual-crosscultural instruction, as determined by the Commission for Teacher Preparation and Licensing.

No waivers shall be granted pursuant to this section for teachers teaching in classrooms utilizing the Spanish language or the Cantonese dialect of the Chinese language.

This section shall remain operative only until July 1, 1984, and as of such date is repealed, unless a later enacted statute which is chaptered before July 1, 1984, deletes or extends such date.

SECTION 36. Section 54024 of the Education Code is amended to read:

54024. The Superintendent of Public Instruction shall calculate available resources for each district by adding funding entitlements allowed each district from the following sources:

- (a) Base impact aid computed pursuant to Section 54028.
- (b) Section 54030.

SECTION 37. Section 56001 of the Education Code, as added by Chapter 797 of the Statutes of 1980, is amended to read:

56001. It is the intent of the Legislature that special education programs provide all of the following:

- (a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of his or her prescribed course of study or until such time that he or she has met proficiency standards prescribed pursuant to Sections 51215 and 51216.
- (b) Early educational opportunities are available to all children between the ages of three and four years and nine months who require intensive special education and services.
- (c) Early educational opportunities may be made available to children younger than three years of age who require intensive special education and services and their parents.
- (d) Any child younger than four years and nine months, potentially eligible for special education shall be afforded the protections provided by this part and by federal law commencing with his or her referral for special education instruction and services.
- (e) Each individual with exceptional needs shall have his or her educational goals, objectives, and special education and related services specified in a written individ-

ualized education program.

(f) Education programs are provided under an approved local plan for special education which sets forth the elements of the programs in accordance with the provisions of this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communications.

(g) Individuals with exceptional needs are offered special assistance programs which promote maximum interaction with the general school population in a manner which is appropriate to the needs of both.

(h) Pupils be transferred out of special education programs when special education services are no longer needed.

(i) The unnecessary use of labels is avoided in providing special education and related services for individuals with exceptional needs.

(j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. Such procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with pupils of limited English proficiency as defined in subdivision (m) of Section 52163, shall be in the individual's primary language. All assessment materials and procedures shall be selected and administered pursuant to Section 56320.

(k) Educational programs are coordinated with other public and private agencies, including preschools, child development programs, nonpublic, nonsectarian schools, regional occupational centers and programs and postsecondary and adult programs for individuals with exceptional needs.

(l) Psychological and health services for individuals with exceptional needs shall be available to each school site.

(m) Continuous evaluation of the effectiveness of these special education programs by the school district, special education services region, or county office shall be made to insure the highest quality educational offerings.

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and that positive efforts to employ qualified handicapped individuals are made.

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to individuals with exceptional needs.

SECTION 38. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SECTION 39. (a) The provisions of this act shall become operative on July 1, 1981, except as specified in subdivision (b).

(b) Sections 7, 16, 19, 24, 25, 32, 33, 34, and 35 of this act shall become operative on January 1, 1981.

Chapter 985.

An act to amend Section 52178 of, and to add Section 52178.5 to, the Education Code, relating to bilingual education, and declaring the urgency thereof, to take effect immediately.

SECTION 1. Section 52178 of the Education Code is amended to read:

52178. All principal teachers providing instruction in programs defined by subdivision (a), (b), or (c) of Section 52163 shall be bilingual-crosscultural teachers as defined pursuant to subdivision (h) of Section 52163, or shall be bilingual in English and the primary language of the pupils of limited English proficiency in the bilingual class and hold an internship credential or an emergency bilingual-crosscultural credential.

In recognition of the shortage of qualified bilingual-crosscultural teachers, a school district may request a renewable two-year waiver from the board for each teacher who is not

bilingual-crosscultural but who is enrolled and participating in a program leading to a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5. Such a teacher, with the assistance of a bilingual-crosscultural aide, may teach in a program of bilingual instruction mandated by Section 52165 for not more than four school years commencing with the first year that the teacher was under waiver, so long as continuing progress toward the certificate of competence is indicated in accordance with this section.

Each school district which requests waivers shall file its application for such a waiver with the State Board of Education on or before October 1 of the appropriate year, and shall give assurance that all teachers receiving such a waiver are, or will be, participating in an appropriate program leading to a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5 during each of the school years for which the waiver is granted, and shall designate who is in charge of the program and which institution or district is conducting it. Existing state and federal staff development funds may be used for training and assessment leading to a bilingual-crosscultural certificate of competence. The district shall further assure that all teachers receiving such a waiver have been notified in writing by the school board as to their obligations while under waiver. The waiver application shall list the names of the teachers who are to receive the waiver, the school to which they are assigned, and the date by which the teacher is expected to obtain the certificate of competence.

Each district, whether or not it requests a waiver, shall report the number of classrooms for which a bilingual teacher is required pursuant to Section 52165, the total number of certificated bilingual-crosscultural teachers employed by the district in classroom positions, and, in the event the district requests a waiver, the total number of teachers for whom a waiver is being requested.

If a district hires new teachers, no waiver shall be granted unless the board finds that the district made a good faith effort to recruit and hire bilingual-crosscultural teachers. As a part of such good faith effort, districts shall contact those bilingual-crosscultural teachers who indicate they are seeking employment as stated in the annual list of bilingual-crosscultural teachers prepared by the Commission for Teacher Preparation and Licensing. Districts needing bilingual-crosscultural teachers shall also request assistance from the clearinghouse maintained by the commission pursuant to Section 10106.

All waivers granted pursuant to this section shall expire not later than the end of the fourth school year the teacher has been on waiver, or June 30, 1984, whichever shall occur first.

It is not the intent of the Legislature, by amending this section in the 1979-80 Regular Legislative Session, to expand the requirements for the Certificate of Bilingual-Crosscultural Competence.

Commencing September 1, 1981, all waiver applications shall include certification by an assessor agency approved by the Commission for Teacher Preparation and Licensing, that the applicant teacher is making the following progress toward meeting the requirements for the bilingual-crosscultural certificate of competence:

- (a) For the teacher who is just entering the bilingual program: no requirement.
- (b) For the teacher beginning his or her second year on waiver: competence in language, culture, or methodology, as required by subdivision (a), (b), or (c) of Section 44253.5.
- (c) For the teacher beginning his or her third year on waiver: no additional requirements.
- (d) For the teacher beginning his or her fourth year on waiver: competence in two of the three areas required by Section 44253.5. These certifications shall be provided to the Department of Education on an annual basis. In lieu of these certifications of competence in culture or methodology, as required by subdivision (b) or (c) of Section 44253.5, the district may submit a statement from a bilingual teacher training institution approved by the Commission for Teacher Preparation and Licensing that the course work for that competence has been completed. To receive a bilingual-crosscultural certificate of competence, an applicant shall pass the examinations for all three areas of competence required by Section 44253.5.

The Commission for Teacher Preparation and Licensing shall contract with approved assessor agencies to separately assess each of the three competencies required in Section 44253.5. The commission shall arrange for assessments if approved assessor agencies cannot provide them. However, the commission may directly assess these competencies if the commission has been unable to arrange an assessment, and if a staff member is qualified to perform the assessment.

SECTION 2. Section 52178.5 is added to the Education Code, to read:

52178.5. An extension of a waiver granted pursuant to Section 52178 shall be provided until July 1, 1984, for a teacher teaching in those languages where there is no preparation or examination available for obtaining a certificate of competence for bilingual-crosscultural instruction, as determined by the Commission for Teacher Preparation and Licensing.

No waivers shall be granted pursuant to this section for teachers teaching in classrooms utilizing the Spanish or the Cantonese dialect of the Chinese language.

This section shall remain operative only until July 1, 1984, and as of such date is repealed, unless a later enacted statute which is chaptered before July 1, 1984, deletes or extends such date.

SECTION 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SECTION 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Over four thousand waivers have been requested during the current school year, and all of these teachers must be assessed if they wish to remain in bilingual-bicultural classrooms after September 1, 1980. In order to build an efficient assessment process, it is necessary that this act take effect immediately.

COLORADO

Colorado Revised Statutes 1973 Annotated. Title 22 - Education.

22-24-101. Short title. This article shall be known and may be cited as the "Bilingual and Bicultural Education Act".

Source. Added, L. 75, p. 666, § 1.

22-24-102. Legislative declaration.

(1) The general assembly hereby declares that there are substantial numbers of students in this state with linguistically different skills due to the influence of another language in their family, community, or peer group or due to their cultural environment, and that public school classes in which instruction is given only in English may be inadequate for the education of these students. The general assembly recognizes the need to provide for programs to perfect the English language skills and cultural development of these students and finds that this could best be accomplished through bilingual and bicultural programs in grades kindergarten through third grade which provide cognitive and affective development of these students by: Utilizing the linguistic skills of these students in the curriculum; providing these students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner; and developing cultural and ethnic pride and understanding among these and other students. The general assembly recognizes the need to provide for programs directed toward the achievement of the following objectives:

(a) Improved performance in comprehension, reading, writing, and speaking the English language;

(b) Improved school attendance and reduced dropout rate;

(c) Development of a positive self-concept and attitude; and

(d) Greater parental involvement in the school programs.

(2) Therefore, the policy of this state is to insure equal educational opportunity for every student and to recognize the educational needs of students with linguistically different skills. The general assembly further declares that it is the purpose of this article to provide for the establishment of bilingual and bicultural programs in the public schools in grades kindergarten through third grade and to provide for the distribution of funds to districts for the costs resulting from such programs.

Source: Added, L. 75, p. 666, § 1.

22-24-103. Definitions.

As used in this article, unless the context otherwise requires:

- (1) "Bilingual and bicultural education teacher's aide" means a person employed to assist the teacher in a program.
- (2) "Board of cooperative services" means a board of cooperative services created pursuant to article 5 of this title.
- (3) "Community bilingual and bicultural committee" or "community committee" means the district level committee consisting of parents and other persons elected for each district providing a bilingual and bicultural education program pursuant to the provisions of this article.
- (4) "Community coordinator" means a person employed by the district for the purpose of promoting communication, understanding, and cooperation between the public school and the community for the effective implementation of programs initiated pursuant to this article.
- (5) "Department" means the department of education.
- (6) "Direct attributable additional cost" means those costs which are incurred due to the provision by a school district or board of cooperative services of approved programs under this article. These costs include both direct support services and direct instructional services and are in addition to the program which all children in the district would be entitled to receive and do not include indirect costs.
- (7) "Director" means the person selected pursuant to the provisions of this article to be the administrative head of the unit in the department.
- (8) "District" means a school district organized and existing pursuant to law but does not include a junior college district.
- (9) "District director of bilingual and bicultural education" means the person appointed to direct the operation of a district's bilingual and bicultural program in which there are more than one hundred students.
- (10) "Program" means the bilingual and bicultural education program established by a district for the purpose of perfecting the English language skills and cultural development of its students which provides for effective development of its students and which provides for the cognitive and affective development of its students by: Utilizing the cultural and linguistic backgrounds of these students in the curriculum; providing these students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner; and developing cultural and ethnic pride and understanding among these and other students.
- (11) "School board" means the board of education of a local school district.
- (12) "State steering committee" means the state bilingual and bicultural steering committee appointed to assist the state board of education in fully and effectively implementing the provisions of this article.
- (13) "Students with linguistically different skills" means students who are not able to take full advantage of present educational programs taught in English because of their language skills and who come from an environment of different customs and traditions which may include the influence of another language in their family, community, or peer group.
- (14) "Supervisor" means a person appointed to supervise a district's bilingual and bicultural program in which there are less than one hundred students enrolled.
- (15) "Teacher" means any person certificated pursuant to article 60 of this title who is employed to administer, direct, or supervise the classroom instructional program in a school in this state.
- (16) "Title I or Title VII school" means a school operating a program under Title I or Title VII of the "Federal Elementary and Secondary Education Act".
- (17) "Unit" means the unit of bilingual and bicultural education within the department created pursuant to this article.

Source: Added, L. 75, p. 667, § 1.

22-24-104. Cooperation as boards of cooperative services.

Districts may cooperate in the carrying out of the provisions of this article, pursuant to the "Boards of Cooperative Services Act of 1965", article 5 of this title. Accordingly, as used in this article, unless the context otherwise specifically requires, "district" and "school board" include "board of cooperative services".

Source: Added, L. 75, p. 668, § 1.

22-24-105. State bilingual and bicultural steering committee - creation.

- (1) Within fifteen days after the approval of this article by the governor, there shall be created a provisional state steering committee. Said committee shall be composed of

nine members, three of whom shall be appointed by the governor and shall be legal residents of this state, three of whom shall be appointed by the speaker of the house of representatives and shall be members of the house of representatives, and three of whom shall be appointed by the president of the senate and shall be members of the senate. Said steering committee shall serve for a period of two years.

(2) A regular state steering committee shall be appointed to succeed the provisional state steering committee pursuant to the provisions of this subsection (2) and subsections (3) to (7) of this section. The regular state steering committee shall be composed of the following nineteen members, all of whom shall be legal residents of this state:

(a) Fifteen members, three from each congressional district in the state, appointed by the state board of education from among nominations submitted by the provisional or regular state steering committee pursuant to subsection (3) of this section. One of the three members from each congressional district shall be a teacher or teacher's aide involved in a bilingual and bicultural education program. In appointing the three members from each congressional district, the state board of education shall consider geographic dispersal of members' residences.

(b) Two members to represent higher education in the state, appointed by the state board of education from among nominations submitted by the provisional or regular state steering committee pursuant to subsection (4) of this section;

(c) One member, appointed by the speaker of the house of representatives from among the membership of the house of representatives;

(d) One member, appointed by the president of the senate from among the membership of the senate.

(3) (a) Prior to the expiration of the term of the provisional state steering committee, and annually thereafter prior to the expiration of the terms of any members of the regular state steering committee appointed pursuant to the provisions of paragraph (a) of subsection (2) of this section, recommendations for nominations to the regular state steering committee for such terms shall be submitted to the provisional or regular state steering committee. Recommendations for nominations submitted pursuant to this subsection (3) shall be submitted within each congressional district in the state.

(b) Within each congressional district, the following groups may make recommendations for nominations and may recommend as many individuals as are deemed necessary;

(I) Community bilingual and bicultural committees;

(II) Teachers, administrators, teachers' aides, and teacher organizations;

(III) School boards;

(IV) Parent-teacher organizations or other citizens.

(c) From among the recommendations for nominations received annually from each congressional district pursuant to paragraph (b) of this subsection (3), the provisional or regular state steering committee shall submit a total of six nominations to the state board of education, for a statewide total of thirty nominations. In submitting nominations from each congressional district, the provisional or regular state steering committee shall consider geographic dispersal of nominees' residences.

(d) From among the nominations submitted for each congressional district pursuant to paragraph (c) of this subsection (3), the state board of education shall make appointments for terms on the regular state steering committee as required by paragraph (a) of subsection (2) of this section and by subsection (5) of this section.

(4) Prior to the expiration of the term of the provisional state steering committee, and annually thereafter prior to the expiration of the terms of any members of the regular state steering committee appointed pursuant to the provisions of paragraph (b) of subsection (2) of this section, nominations for such terms shall be submitted to the state board of education by the provisional or regular state steering committee. At least twice the number of nominations shall be submitted as there are terms to be filled. From among the nominations submitted pursuant to this subsection (4), the state board of education shall make appointments for terms on the regular state steering committee as required by paragraph (b) of subsection (2) of this section and by subsection (5) of this section.

(5) The members of the regular state steering committee shall serve for basic terms of three years; except that initial one-year and two-year appointments shall be made by the state board of education so that approximately one-third of the terms on the committee will expire in any one calendar year, taking into consideration the appointments made by the speaker of the house of representatives and the president of the senate.

(6) Members of the regular state steering committee shall hold their offices for the terms for which they have been appointed and until their successors are appointed and qualified.

(7) Appointments to fill vacancies on the regular state steering committee, other than vacancies caused by the expiration of terms of office, shall be made by the state board of education; except that appointments for full terms and to fill vacancies in offices on the committee appointed by the speaker of the house of representatives and the president of the senate shall be made in the manner provided for original appointments.

(8) The state steering committee established pursuant to subsection (1) of this section or pursuant to subsections (2) to (7) of this section shall assist the state board of education in implementing the provisions of this article. The state steering committee shall adopt guidelines for the submission of plans for bilingual and bicultural education programs by districts. Members of the state steering committee shall be reimbursed pursuant to rules and regulations of the department for their actual and necessary expenses incurred in the performance of their powers and duties under this article.

Source: Added, L. 75, p. 668, § 1.

22-24-106. Powers and duties of state board of education.

(1) The state board of education, in cooperation with the appropriate personnel within the department and in cooperation with the state steering committee, has the power to:

(a) Select the director of the unit of bilingual and bicultural education;

(b) Adopt all rules, regulations, and procedures which it deems necessary for the implementation of this article. The state board of education shall conduct public hearings with adequate notice to the general public prior to the adoption of any rules, regulations, or procedures pursuant to this article and shall present an annual report to the general assembly concerning the overall progress of the programs.

(c) Adopt appropriate timetables for the submission of bilingual and bicultural plans by districts for the effective implementation of this article, beginning with the school year 1975-76, and adopt standards, criteria, or other measures which the unit shall apply in evaluating plans submitted by such districts;

(d) Review any appeals by districts and review the bilingual and bicultural plans which are not approved by the unit;

(e) Report its evaluations or analyses of all bilingual and bicultural plans funded or rejected.

(2) The state board of education shall:

(a) Approve all tests, criteria, identification instruments, and procedures used by districts;

(b) Insure that said tests, criteria, identification instruments, and procedures are normal for relevant geographical areas; and

(c) Insure that said tests, criteria, identification instruments, and procedures are valid for the purpose of identifying students with linguistically different skills.

Source: Added, L. 75, p. 670, § 1.

22-24-107. Duties of department - creation of unit.

(1) The department has the duty to:

(a) Establish a unit of bilingual and bicultural education, a unit director, and necessary unit employees;

(b) Study, review, evaluate, and disseminate all available resources and programs that, in whole or in part, are or could be directed toward meeting the language capability needs of students with linguistically different skills; gather and disseminate information on other successful programs existing in this state and other states; and encourage experimentation and innovation in bilingual and bicultural programs;

(c) Study, review, evaluate, and disseminate, to all districts on an annual basis, information on student dropout, retention, special education placement, achievement performance, and such other information as the unit deems relevant;

(d) Study, review, evaluate, and disseminate all successful and innovative preservice and in-service programs for staffs of bilingual and bicultural programs and assist districts in selecting and contracting said services;

(e) Compile a data bank on bilingual and multilingual teachers and potential graduates who have an interest in working in bilingual and bicultural programs from colleges or universities in this state and other states whom the unit identifies for the purpose of assisting districts in their independent efforts to seek bilingual teachers;

(f) Disseminate all rules, regulations, and procedures adopted by the state board of education.

Source: Added, L. 75, p. 671, § 1.

22-24-108. Language identification - development of preliminary plan.

(1) Each district in this state shall annually conduct a census, on or before October 15 or within thirty days after registration, to ascertain and identify the number of school-age children in grades kindergarten through third grade with linguistically different skills residing within its boundaries in accordance with rules, regulations, and procedures adopted by the state board of education pursuant to section 22-24-106.

(2) The district shall enlist the cooperation of and assistance from the unit in conducting the census.

(3) (a) No later than thirty days after the district has conducted its census, the school district shall notify by mail the unit and the parents or legal guardian of students identified as having linguistically different skills in grades kindergarten through third grade.

(b) The notice shall contain a plain, nontechnical description of the purposes, methodology, and content of the program and shall inform the parents or legal guardian that he has the right to enroll such student in the program, that the parents or legal guardian may visit the district's bilingual and bicultural classes as often as desired, and that the parents or legal guardian has the right to withdraw such student from the program. Said notice shall be written in English and in the language of the student's parents or legal guardian.

(c) In addition, the district shall notify by direct contact each student and his parents or legal guardian to explain more fully the purpose, methodology, and content of the program.

(4) The parents or legal guardian of a student (identified for the program or desirous of enrolling in the program) who wishes to enroll said student in the program shall do so in writing upon forms provided by the district.

(5) (a) A district shall develop a plan for a bilingual and bicultural education program in a school if there are fifty or more students in grades kindergarten through third grade with linguistically different skills or if ten percent of the students in a school in grades kindergarten through third grade have linguistically different skills.

(b) A district may develop a plan for a bilingual and bicultural program if there are less than fifty students in a school in grades kindergarten through third grade with linguistically different skills or if less than ten percent of the students in a school in grades kindergarten through third grade have linguistically different skills.

(6) In addition to the provisions of section 22-24-117, plans developed pursuant to the provisions of subsection (5) of this section:

(a) Shall deal specifically with each school within the attendance boundaries of the district within which a number or percentage of students with linguistically different skills has been identified which exceeds the number or percentage specified in subsection (5) of this section;

(b) May deal with other schools within the attendance boundaries of the district;

(c) Shall allow students in schools which are not eligible under this article to have the opportunity, within district policies and regulations, to enroll in those schools providing programs approved pursuant to this article. Transportation need not be provided by the district.

(d) Shall provide for bilingual and bicultural education programs of sufficient duration and scope in grades kindergarten through third grade to meet the educational needs of students with linguistically different skills attending schools within the attendance boundaries of the district.

(7) A plan for a bilingual and bicultural education program developed pursuant to the provisions of subsection (5) of this section shall be approved by the school board of each respective district affected by the provisions of subsection (5) of this section. Districts may cooperate with other districts or boards of cooperative services in developing plans pursuant to the provisions of subsection (5) of this section.

(8) All plans developed pursuant to subsection (5) of this section shall be submitted to the department according to the provisions of section 22-24-117.

(9) Within the limitations of state appropriations for the implementation of this article and after review of all plans submitted pursuant to subsection (8) of this section, the state board of education shall determine those plans which shall be funded from such appropriations. If the plan submitted by a district is funded pursuant to this subsection (9), said district shall implement the bilingual and bicultural education program for which the plan was developed. Nothing in this article shall be construed as prohibiting a district from implementing a bilingual and bicultural education program, the plan for which is not funded pursuant to this subsection (9).

(10) No district shall take any action which has the effect of decreasing the enrollment of students with linguistically different skills at a school to avoid the provisions of subsections (1) to (7) of this section unless said agency is desegregating an illegally segregated school system. All plans for the elimination of racial or ethnic isolation or segregation which affect the provisions of subsections (5) to (9) of this section shall be submitted to the department, together with the district's census report.

(11) If the unit determines that any district has not complied with this section, it shall immediately notify the department and said district in writing of its noncompliance. The department shall thereafter provide said district with a reasonable opportunity to comply and with the right to a hearing regarding said noncompliance in accordance with rules, regulations, or procedures established by the state board of education, in cooperation with the state steering committee.

Source: Added, L. 75, p. 671, § 1.

22-24-109. Enforcement of article.

A district is required to develop an acceptable plan for a bilingual and bicultural education program in order to meet the needs of children as determined in the school census, according to the provisions of section 22-24-108 (1) and (3), and to amend such plan if it is unacceptable to the department. It is the duty of the members of the school board to carry out the provisions of such plan or a portion of such plan, according to the provisions of this article, if sufficient funds are available for the implementation of this article.

Source: Added, L. 75, p. 673, § 1.

22-24-110. Enrollment of students with linguistically different skills - enrollment of other students - notification - parental right of withdrawal.

(1) No later than thirty days after the district is notified of the approval of the district's plan and the availability of funding for such program, the district shall notify the parents or legal guardian of each student to be included in the program.

(2) A district's program shall give preference to students with linguistically different skills, but said program shall also be open to all other students.

(3) Each school shall provide that an orientation session be held with the student's parents or legal guardian at the beginning of classes for the purpose of fully explaining the program in a manner and language understood by said parents or legal guardian.

(4) If the parents or legal guardian of an identified student chooses to subsequently withdraw the child from the program, he shall register such decision in writing with the district. Prior to the withdrawal of any student, the parents or legal guardian of such student shall be fully advised, during a conference with district officials and in a manner and language understood by said parents or legal guardian, of the nature of the program from which the student is being withdrawn and the program into which the student will subsequently be placed.

Source: Added, L. 75, p. 673, § 1.

22-24-111. Enrollment of nonresident students.

A district may allow a nonresident student to enroll in or to attend its program, and the tuition, if any, shall be paid according to the provisions of section 22-32-115.

Source: Added, L. 75, p. 674, § 1.

22-24-112. Content of programs - extracurricular activities - location of courses - class composition and size.

(1) A bilingual and bicultural program shall be a full-time program of instruction in which appropriate subjects shall be given in the language of the students with linguistically different skills and in English; in which the necessary skills of comprehension, speaking, reading, and writing are taught in both languages; and in which the history, culture, and cultural contributions associated with the language of the students with linguistically different skills and the history and culture of the United States are presented to the students in the languages which reflect the cultures of the students in the classroom.

(2) The program shall be located in the regular program of the public schools and not in a separate program, and districts shall assign students to schools in such a way that will promote, encourage, or have the effect of integrating students regardless of national origin or linguistic ability. Every district shall insure that the students enrolled in programs described in subsection (1) of this section shall have an equal and meaningful

opportunity to participate fully with other students in all extracurricular activities.

(3) Classes in which a bilingual and bicultural program is taught shall be composed of pupils of approximately the same age or grade level, as determined by the district's plan.

(4) The maximum student-teacher ratio shall be set by the department and shall accommodate the educational needs of students enrolled in a program.

(5) No district may transfer a student of linguistically different skills out of a bilingual and bicultural program unless the parents or legal guardian of the student approves the transfer in writing.

(6) The parents or legal guardians of students in grades kindergarten through third grade who do not have linguistically different skills shall be notified of such bilingual and bicultural programs, and such students shall be encouraged to enroll in the program.

Source: Added, L. 75, p. 674, § 1.

22-24-113. Bilingual teachers - training - staff associates.

(1) In selecting teachers for a bilingual and bicultural program, a school board, pursuant to guidelines promulgated by it, in cooperation with the community committee, shall make an affirmative effort to seek, recruit, and employ persons who are bilingual.

(2) (a) The department shall allocate money for in-service training to districts employing teachers for bilingual and bicultural programs. In-service training shall include, but is not limited to:

(I) Development of instructional skills in reading, writing, and speaking;

(II) Development of bilingual and bicultural teaching skills;

(III) Development of abilities to identify, create, and apply instructional techniques that will enhance the cognitive and psychomotor development of children in bilingual and bicultural education programs; and

(IV) Demonstration of teaching skills relative to bilingual and bicultural education.

(b) Administrators shall be encouraged to participate in in-service training programs.

(3) Districts may employ curriculum specialists for the effective development and implementation of the program. School boards shall make an affirmative effort to seek, recruit, and employ persons who are bilingual.

Source: Added, L. 75, p. 674, § 1.

22-24-114. Teachers' aides - training - community coordinators.

(1) In addition to employing bilingual teachers, each district providing bilingual and bicultural programs pursuant to this article may employ teachers' aides. The school board shall make an affirmative effort to seek, recruit, and employ teachers' aides who are bilingual. The school board shall provide procedures for the involvement of the community committee in the screening of applicants. Teachers' aides shall not be employed for the purpose of supplanting bilingual teachers.

(2) The department shall allocate money to districts employing teachers' aides for the purpose of the upward mobility of said aides for on-the-job performance. This money shall be utilized for the purpose of in-service training sessions so that said teachers' aides can acquire credit hours from an accredited community or junior college or four-year institution of higher education toward the acquisition of a degree. In-service training of teachers' aides shall include, but is not limited to:

(a) Development of personal skills in reading, writing, and speaking;

(b) Opportunities to develop general teaching skills;

(c) Opportunities to develop the ability to identify, create, and apply instructional techniques that will enhance the cognitive and psychomotor development of children in bilingual and bicultural education programs; and

(d) Opportunities to demonstrate practice teaching skills relative to bilingual and bicultural education.

(3) Any district which conducts bilingual and bicultural programs pursuant to this article shall employ one or more full-time or part-time community coordinators if there are fifty or more students enrolled in the program. Community coordinators shall promote communication, understanding, and cooperation between the public schools and the community and shall visit the homes of children who are to be enrolled in a bilingual and bicultural program in order to convey information about the program. An affirmative effort shall be made by the school board to seek, recruit, and employ a coordinator who is bilingual.

Source: Added, L. 75, p. 675, § 1.

22-24-115. District director of bilingual and bicultural education.

(1) A district in which one hundred or more pupils are enrolled in a bilingual and

bicultural program shall appoint a full-time or part-time district director of bilingual and bicultural education. The district director of bilingual and bicultural education shall be qualified pursuant to the rules and regulations of the state board of education as a bilingual teacher and shall direct the operation of the district's bilingual and bicultural program. An affirmative effort shall be made by the school board to seek, recruit, and employ a district director who is bilingual.

(2) In those districts with less than one hundred students enrolled in the program, the district shall appoint a full-time or part-time supervisor of bilingual and bicultural education who shall have general authority and responsibility for the program. The supervisor shall be qualified pursuant to rules and regulations of the state board of education as a bilingual teacher and shall supervise the operations of the program pursuant to regulations promulgated by the state board of education, in cooperation with the state steering committee. An affirmative effort shall be made by the school board to seek, recruit, and employ supervisors who are bilingual.

Source: Added, L. 75, p. 676, § 1.

22-24-116. Parent and community participation.

(1) Districts should provide for the maximum involvement of parents of students enrolled in the programs. Accordingly a regular community bilingual and bicultural committee shall be established within each district offering a bilingual and bicultural program. The parents of students enrolled in each respective program of each school shall elect at least seventy-five percent of the regular community committee according to guidelines established by the initial community committee. The parents elected shall be parents of students enrolled in the program. Any community committee shall have the option of establishing community committees for each school offering a program. In addition to the parent members of each community committee, a representative of the bilingual teachers, a representative of the bilingual teachers' aides, the community coordinator, and the district director or supervisor of bilingual and bicultural education shall be members of each respective community committee as they become employees of the district. School principals and other administrators within the district shall be encouraged to participate and cooperate with the community committee.

(2) For purposes of establishing the initial community committee, which shall be established at least forty-five days before a district submits a plan pursuant to this article, the following shall apply:

(a) Consistent with guidelines developed by the state steering committee, the local school board shall establish procedures whereby parents whose children may be enrolled in bilingual and bicultural programs shall elect the initial community committee.

(b) The district, at least ten days before the community committee is established, shall have publicized in English and the language of the students who are likely to be identified as participants in the program reasonable and adequate notices which inform parents of their right to be candidates for election to the community committee, of the purposes of the committee, and of the program which the committee will be planning, developing, and evaluating. Districts shall give similar notices to students enrolled in Title I and Title VII schools or in the schools likely to have a program for the purpose of having these notices delivered to the parents at home.

(c) Community committees established after the initial committee shall be formed pursuant to subsection (1) of this section.

(3) The school board shall administer the provisions of this article in accordance with the rules, regulations, and procedures adopted by the state board of education.

(4) The school board shall provide technical assistance to the community committee or committees for:

(a) Assistance in program development;

(b) Full unit participation; and

(c) Effective program implementation from funds appropriated for the implementation of this article.

(5) The district shall furnish each member of the community committee, free of charge, a copy of this article, the rules, regulations, or procedures adopted by the state board of education, the guidelines adopted by the state steering committee, the district's proposed application pursuant to this article, and such other information as is reasonably necessary for the effective involvement of the community committee. The district shall also furnish the community committee with the district's and department's plans, if any, for future bilingual and bicultural programs, together with a description of the process of planning and developing said programs and the projected times at which each stage of the process

will start and be completed. The district shall also furnish, and the community committee shall also have adequate opportunity to consider, information concerning the educational needs of children with linguistically different skills residing within the district's attendance boundaries and the various programs available to meet those needs. The district shall identify those needs which should be addressed through the programs instituted pursuant to this article. The community committee shall also have an opportunity to review evaluations of prior programs, if any, and shall be informed of all performance criteria by which the programs are to be evaluated. The school board shall adopt adequate procedures to insure prompt response to complaints and suggestions from all parents whose children are enrolled in the program.

(6) The department shall not approve any plan unless it is accompanied by the written comments of the community committee, if any, properly constituted under this section and unless said plan has been voted upon by the community committee. The vote, if any, of the community committee shall be given serious consideration by the department before said plan is approved.

(7) Each plan by a district for financial assistance under this article shall contain an assurance that the appropriate district official will consult at least once a month during the regular school year with the community committee, in formal meetings of such committee, with respect to the administration and operation of a program and that it will provide such committee with a reasonable opportunity to periodically observe and comment upon all program-related activities.

(8) No district shall amend its program until it has notified the state board of education and received approval.

Source: Added, L. 75, p. 676, § 1.

22-24-117. Plan requirements.

(1) Every district seeking financial assistance under this article shall submit a comprehensive plan for bilingual and bicultural education to the department on forms provided by the unit at least one hundred twenty days before the beginning of each school year; except that the state board of education may adopt such other timetables as it deems appropriate for the effective and immediate implementation of this article for the school year 1975-76. In addition to materials and data which the department may determine to be needed in evaluating the adequacy of plans submitted and information and assurances required elsewhere in this article, each plan submitted shall have the following components at a minimum:

(a) The findings of the census study as conducted pursuant to the provisions of section 22-24-108 (1), a listing of the eligible schools, grades, and classes to be included, and the total number of students to be enrolled;

(b) District goals and objectives for the program as they relate to the students to be enrolled;

(c) A program description of how district program goals and objectives, as well as those objectives identified in section 22-24-102 (1), are to be achieved;

(d) A management plan as to how each school program will be organized, staffed, coordinated, and monitored;

(e) Program evaluation procedures;

(f) Methods of communicating program needs and progress to district patrons, district staff members, the district accountability committee, and the school board;

(g) In-service provisions to be made for district staff members; and

(h) Projected expenditures for programs required or permitted under this article.

(2) Except for the school year 1975-76, each plan shall provide for the use of teachers who have competence in the areas of comprehension, speaking, reading, and writing in the two languages used and training or experience in teaching methods specifically related to these four basic skill areas in each language. Teacher selection shall be based upon a personal interview that identifies the candidate's relative level of competence in each of these basic skill areas. A candidate may be selected who shows strong competence in most of the basic skill areas but needs further development in the remaining skill areas; but the district is required to develop or arrange for a specific course of in-service training for that teacher in the identified basic skill areas, beginning in the first term of the teacher's employment. Teacher participation in this in-service program shall be a condition of the teacher's employment.

(3) No plan shall be approved by the state board of education unless the requirements adopted by the state board of education, in cooperation with the state steering committee, have been met.

(4) The department shall not approve nonconforming plans and shall return the same to the district within sixty days after receipt, together with written reasons for nonapproval, to allow the district a reasonable opportunity to resubmit an amended plan; except that the state board of education, in cooperation with the state steering committee, may adopt such other timetables as it deems appropriate for the full and effective implementation of this article for the school year 1975-76. Approval of a plan by the department shall be a prerequisite to state disbursement.

(5) No funds shall be disbursed to a district pursuant to this article unless said district certifies that its program will be implemented in accordance with the provisions of this article and the rules, regulations, and procedures adopted by the state board of education.

(6) Each participating district shall maintain an accurate, detailed, and separate account of all expended moneys received under this article and any other records the unit deems necessary and shall annually report thereon to the unit for the school year ending June 30. All said accounts and records shall be available to the unit and the general public to insure that the programs are implemented in conformity with this article and the rules, regulations, and procedures adopted by the state board of education.

(7) All disbursements under this article are supplementary to state moneys disbursed under the "Public School Finance Act of 1973", article 50 of this title, and shall not cause a reduction of any other or a combination of any other state or federal moneys which a district is otherwise eligible to receive.

(8) Districts or boards of cooperative services requesting financial assistance under this article shall provide assurance that funds available under this article will be used to supplement the level of other funds available for the education of children in these programs and that funds received under this article will not be used to provide instructional or support services to pupils which are ordinarily provided with other state or local funds to all pupils. In no instance shall reimbursement under this article exceed one hundred percent of the direct attributable additional cost of programs when combined with federal funds available for these programs.

(9) Districts or boards of cooperative services that operate a program approved by the department shall be entitled to reimbursement up to an amount not to exceed one hundred percent of the direct attributable additional cost incurred by the district or board of cooperative services for:

(a) The actual position cost of:

(I) Teachers;

(II) Teachers' aides;

(III) District directors;

(IV) Supervisory personnel;

(V) Coordinators;

(VI) Curriculum specialists.

(b) The cost of approved in-service programs for teachers and teachers' aides;

(c) The cost of approved upward mobility programs for teachers' aides;

(d) The cost of additional bilingual and bicultural materials.

Source: Added, L. 75, p. 678, § 1.

22-24-118. Implementation.

(1) In order to effectively implement the provisions of this article initially, the following schedule shall apply:

(a) No later than November 1, 1975, the state board of education, in cooperation with the provisional state steering committee, shall adopt all rules, regulations, and procedures which it deems necessary for the full and effective implementation of this article, including approval of all tests, criteria, identification instruments, and procedures used by districts to identify children of linguistically different skills pursuant to sections 22-24-106 and 22-24-108.

(b) No later than January 1, 1976, each district shall complete the census provided for in section 22-24-108.

(c) No later than April 1, 1976, each district meeting the criteria under section 22-24-108(5)(a) shall have developed and submitted to the department a comprehensive plan for bilingual and bicultural education pursuant to section 22-24-117.

Source: Added, L. 75, p. 680, § 1.

22-24-119. Tutorial grant program for the instruction of pupils with limited English language skills.

(1) (a) In addition to the other provisions of this article, beginning July 1, 1975,

districts are eligible to apply for grants, on an annual basis, from the state board of education to provide tutorial programs for children enrolled in the schools of the district who are identified under Title VI of the "United States Civil Rights Act of 1964" as those who speak only a language other than English.

(b) The state board of education shall promulgate rules and guidelines for the implementation of this section. The department shall review all applications for grants under paragraph (a) of this subsection (1). The department shall approve an application for such a grant only if it determines that:

(I) The school district has a comprehensive plan for a tutorial program designed to effectively remedy the English language deficiencies of children identified pursuant to paragraph (a) of this subsection (1);

(II) The tutorial program plan includes an accountability component which identifies the needs of the children with English language deficiencies, defines measurable objectives for such children, and evaluates the progress of such children toward the defined objectives;

(III) The tutorial program conforms with the rules and regulations of the state board of education.

(2) The state board of education shall report annually to the general assembly on all approved grants. Such report shall include the number of children served, the number of teachers or teachers' aides employed exclusively to remedy English language deficiencies (or that portion of the activities of teachers or teachers' aides which is exclusively attributable to the remedying of English language deficiencies), and the extent to which the special language needs of children identified pursuant to paragraph (a) of subsection (1) of this section are being met.

(3) Funds received pursuant to this section may be expended by districts for the employment of teachers or teachers' aides for that portion of their activities which is exclusively attributable to the purposes of this section. Districts may also expend such funds for the reasonable costs of teacher's aide training and instructional materials which are directly related to the tutorial programs established by this section. No funds appropriated to implement the provisions of this section shall be used to teach children any language other than English.

(4) (a) Beginning July 1, 1975, each district for which a tutorial program is approved by the department shall be entitled to receive a special tutorial grant for each child identified pursuant to paragraph (a) of subsection (1) of this section enrolled in the tutorial program.

(b) In the event that funds appropriated for the implementation of this section for any fiscal year are not sufficient to meet the requirements of paragraph (a) of this subsection (4), the state board of education shall prorate the total of the funds appropriated among all eligible districts in the proportion which each district's entitlement bears to the total entitlement.

Source: Added, L. 75, p. 680, § 1.

CONNECTICUT

Connecticut General Statutes Annotated. Title 10 - Education.

§ 10-17. English language to be medium of instruction. Exception

The medium of instruction and administration in all public and private elementary schools shall be the English language, except that instruction as provided in sections 10-17a and 10-17f may be given in any language other than English to any pupil who, by reason of foreign birth, ancestry or otherwise, experiences difficulty in reading and understanding English.

(1977, P.A. 77-588, §4, eff. July 1, 1978.)

§ 10-17a. Establishment of bilingual and bicultural program

Any local or regional board of education may establish at any level of instruction a bilingual and bicultural program of study involving a culture in which a language other than English is predominately spoken, provided the purpose of such program shall be to enable children to become proficient in English. A private school may, with the approval of the state board of education, establish such a program of bilingual education.

(1978, P.A. 78-218, §14.)

§ 10-17b. Instruction bilingually and biculturally; procedures, materials and equipment; purpose

Each local or regional board of education shall determine when instruction shall be given bilingually and biculturally. Said board, with the aid of the state board of education, shall design the procedures and acquire the training materials and equipment that such local board of education deems necessary to meet the special educational needs of children of limited English speaking ability. Such programs may include, but shall not be limited to, components designed to accomplish the following:

- (a) To provide bilingual instruction so that the student will gain competence in both English and such student's language;
 - (b) to impart a knowledge of the history and culture associated with the student's language;
 - (c) to establish closer cooperation between the school and the home;
 - (d) to provide bilingual and bicultural early childhood educational programs designed to improve the potential for profitable learning activities by such children;
 - (e) to provide bilingual and bicultural adult education programs for parents of children participating in programs under sections 10-17 to 10-17d, inclusive;
 - (f) to provide such programs designed for dropouts or potential dropouts having need of them;
 - (g) to provide such programs in trade, vocational or technical schools; and
 - (h) to provide other activities deemed desirable to further the purposes of section 10-17 and sections 10-17a to 10-17d, inclusive.
- (1978, P.A. 78-218, §15.)

§ 10-17c. Advice and assistance of state board. Evaluation of programs

(a) In areas with large concentrations of non-English-speaking persons the state board of education shall advise and assist the board of education of the school district to make said programs available to all students.

(b) The state board of education shall annually evaluate the programs conducted under sections 10-17 to 10-17d, inclusive, and shall on or before February fifteenth annually report such evaluations to the joint standing committee on education of the general assembly.

(1978, P.A. 78-218, §16.)

§ 10-17d. Application for and receipt of federal funds

Subject to the regulations adopted by the state board of education pursuant to section 10-11, each local or regional board of education shall have the power to apply for and to receive federal funds made available directly to local communities for the programs provided in section 10-17, sections 10-17a to 10-17c, inclusive, and section 10-17f.

(1977, P.A. 77-588, §5, eff. July 1, 1978; 1978, P.A. 78-218, §17.)

§ 10-17e. Definitions

Whenever used in sections 10-17 and 10-17d to 10-17h, inclusive:

- (1) "Eligible children" means children enrolled in public schools in grades kindergarten to twelve, inclusive, whose dominant language is other than English and whose proficiency in English is not sufficient to assure equal educational opportunity in the regular school program;
 - (2) "Program of bilingual education" means a program of instruction in which eligible children are placed until such time as such children attain a level of proficiency in English which is sufficient to assure equal educational opportunity in the regular school program, including, but not limited to, educational experiences to enable eligible children to become proficient in English, subject matter instruction in the dominant language of eligible children, and provision of opportunities for eligible children to participate with and learn from children from other linguistic and cultural backgrounds.
- (1977, P.A. 77-588, §1, eff. July 1, 1978.)

§ 10-17f. Required bilingual education. Adoption of regulations. Submission of plan

- (a) On or before November 1, 1978, and annually thereafter, the board of education for

each local and regional school district shall ascertain, in accordance with regulations established by the state board of education, the eligible children in such school district and shall classify such children according to their dominant language.

(b) Whenever it is ascertained that there are in any public school within a local or regional school district twenty or more eligible children classified as dominant in any one language other than English, the board of education of such district shall provide a program of bilingual education for such eligible children for the school year next following.

(c) The board of education for each local and regional school district which is required to provide a program of bilingual education shall initially endeavor to implement the provisions of subsection (b) of this section through in-service training for existing certified professional employees, and thereafter, shall give preference in hiring to such certified professional employees as are required to maintain said program.

(d) The state board of education shall adopt and enforce regulations concerning requirements for such programs, which may be modeled after policy established by the Department of Health, Education and Welfare for bilingual education programs.

(e) Each board of education for a local and regional school district which is required to provide for the first time a program of bilingual education shall prepare and submit to the commissioner of education for review a plan to implement such program, in accordance with regulations adopted by the state board of education.

(1977, P.A. 77-588, §2, eff. July 1, 1978; 1977, P.A. 77-614, §302, eff. Jan. 1, 1979; 1977, P.A. 77-614, §587, eff. June 2, 1978; 1978, P.A. 78-303, §85, eff. June 6, 1978.)

§ 10-17g. Application for grant. Annual evaluation report

For the fiscal year ending June 30, 1979, and annually thereafter, the board of education for each local and regional school district which is required to provide a program of bilingual education, pursuant to section 10-17f may make application to the state board of education and shall thereafter receive a grant in an amount equal to the product obtained by multiplying the total appropriation available for such purpose by the ratio which the number of eligible children in the school district bears to the total number of such eligible children statewide. The board of education for each local and regional school district receiving funds pursuant to this section shall annually, on or before July first, submit to the state board of education a progress report which shall include (1) measures of increased education opportunities for eligible children (2) program evaluation and (3) certification by the board of education submitting the report that any funds received pursuant to this section, have been used for the purposes specified. The state board of education shall biennially evaluate programs conducted pursuant to section 10-17f.

(1977, P.A. 77-588, §3, eff. July 1, 1978.)

§ 10-17h. Repealed. (1979, P.A. 79-631, §109.)

DELAWARE

Delaware Code Annotated. Title 14 - Education.

Chapter 1. § 122

(b) The Board shall prescribe rules and regulations:

(5) Determining the minimum courses of study for all public elementary schools and all public high schools of the State, including provisions that all elementary school subjects be taught in the English language in all schools in the State, and requiring that all pupils of all public elementary schools and all public high schools of the State be instructed in physiology and hygiene with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system;....

FLORIDA

Florida Statutes Annotated. Title 15 - Education.

Section 236.081

(5) Categorical Programs.--The Legislature hereby provides for the establishment of

selected categorical programs to assist in the development and maintenance of activities giving indirect support to the programs previously funded. These categorical appropriations may be funded as general and transitional and categorical programs. It is the intent of the Legislature that no transitional categorical program shall be funded for more than 4 fiscal years from the date of original authorization or from July 1, 1973, which ever is later. Such programs are as follows:

(a) General. 1.

(b) Transitional. 1. Bilingual program as provided by law.

GEORGIA

No statutory or constitutional provisions.

HAWAII

No statutory or constitutional provisions.

Note: The state legislature has approved budgetary allocations for bilingual education staff since FY 1977. (Cited in a letter from the Hawaii Department of Education, dated July 13, 1979.)

IDAHO

Idaho Code. Title 33 - Education.

Chapter 16

33-1601. Instruction in the English Language. — Instruction in all subjects in the public schools, except that required for the teaching of foreign languages, shall be conducted in the English language. Provided, however, that for students where the language spoken in their home is not English, instruction may be given in a language other than English as necessary to allow for the transition of the students to the English language. (1963, ch.13, § 176, p.27. am. 1980, ch. 140, § 1, p. 305.)

ILLINOIS

Illinois Annotated Statutes. Chapter 122 - Schools.

Article 14C

14C-1. § 14C-1. Legislative finding and declaration.

The General Assembly finds that there are large numbers of children in this State who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The General Assembly believes that a program of transitional bilingual education can meet the needs of these children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of this State to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English-speaking ability, and in recognition of the success of the limited existing bilingual programs conducted pursuant to Sections 10-22.38a and 34-18.2 of The School Code, it is the purpose of this Act to provide for the establishment of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to help local school districts meet the extra costs of such programs. Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-2. § 14C-2. Definitions.

Unless the context indicates otherwise, the terms used in this Article have the

following meanings:

- (a) "Superintendent's Office" means the Office of the Superintendent of Public Instruction;
- (b) "Certification Board" means the State Teacher Certification Board;
- (c) "School District" means any school district established under this Code;
- (d) "Children of limited English-speaking ability" means (1) children who were not born in the United States whose native tongue is a language other than English and who are incapable of performing ordinary classwork in English; and (2) children who were born in the United States of parents possessing no or limited English-speaking ability and who are incapable of performing ordinary classwork in English;
- (e) "Teacher of transitional bilingual education" means a teacher with a speaking and reading ability in a language other than English in which transitional bilingual education is offered and with communicative skills in English;
- (f) "Program in transitional bilingual education" means a full-time program of instruction (1) in all those courses or subjects which a child is required by law to receive and which are required by the child's school district which shall be given in the native language of the children of limited English-speaking ability who are enrolled in the program and also in English, (2) in the reading and writing of the native language of the children of limited English-speaking ability who are enrolled in the program and in the oral comprehension, speaking, reading and writing of English, and (3) in the history and culture of the country, territory or geographic area which is the native land of the parents of children of limited English-speaking ability who are enrolled in the program and in the history and culture of the United States; or a part-time program of instruction based on the educational needs of those children of limited English-speaking ability who do not need a full-time program of instruction.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-2.1 § 14C-2.1 Establishment of programs until July 1, 1976.

School boards of any school districts that maintain a recognized school, whether operating under the general law or under a special charter, may until July 1, 1976, depending on available state aid, and shall thereafter, subject to any limitations hereinafter specified, establish and maintain such transitional bilingual programs as may be needed for children of limited English-speaking ability as authorized by this Article.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-3. § 14C-3. Language classification of children--Establishment of program--Period of participation--Examination.

Each school district shall ascertain, not later than the first day of March, under regulations prescribed by the Superintendent's Office, the number of children of limited English-speaking ability within the school district, and shall classify them according to the language of which they possess a primary speaking ability, and their grade level, age or achievement level.

When, at the beginning of any school year, there is within an attendance center of a school district not including children who are enrolled in existing private school systems, 20 or more children of limited English-speaking ability in any such language classification, the school district shall establish, for each classification, a program in transitional bilingual education for the children therein; provided, however, that a school district may establish a program in transitional bilingual education with respect to any classification with less than 20 children therein.

Every school-age child of limited English-speaking ability not enrolled in existing private school systems shall be enrolled and participate in the program in transitional bilingual education established for the classification to which he belongs by the school district in which he resides for a period of 3 years or until such time as he achieves a level of English language skills which will enable him to perform successfully in classes in which instruction is given only in English, whichever shall first occur.

A child of limited English-speaking ability enrolled in a program in transitional bilingual education may, in the discretion of the school district and subject to the approval of the child's parent or legal guardian, continue in that program for a period longer than 3 years.

An examination in the oral comprehension, speaking, reading and writing of English, as prescribed by the Superintendent's Office, shall be administered annually to all children

of limited English-speaking ability enrolled and participating in a program in transitional bilingual education. No school district shall transfer a child of limited English-speaking ability out of a program in transitional bilingual education prior to his third year of enrollment therein unless the parents of the child approve the transfer in writing, and unless the child has received a score on said examination which, in the determination of the Superintendent's Office, reflects a level of English language skills appropriate to his or her grade level.

If later evidence suggests that a child so transferred is still handicapped by an inadequate command of English, he may be re-enrolled in the program for a length of time equal to that which remained at the time he was transferred.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-4. § 14C-4. Notice of enrollment--Content--Rights of parents.

No later than 10 days after the enrollment of any child in a program in transitional bilingual education the school district in which the child resides shall notify by mail the parents or legal guardian of the child of the fact that their child has been enrolled in a program in transitional bilingual education. The notice shall contain a simple, nontechnical description of the purposes, method and content of the program in which the child is enrolled and shall inform the parents that they have the right to visit transitional bilingual education classes in which their child is enrolled and to come to the school for a conference to explain the nature of transitional bilingual education. Said notice shall further inform the parents that they have the absolute right, if they so wish, to withdraw their child from a program in transitional bilingual education in the manner as hereinafter provided.

The notice shall be in writing in English and in the language of which the child of the parents so notified possesses a primary speaking ability.

Any parent whose child has been enrolled in a program in transitional bilingual education shall have the absolute right, either at the time of the original notification of enrollment or at the close of any semester thereafter, to withdraw his child from said program by providing written notice of such desire to the school authorities of the school in which his child is enrolled or to the school district in which his child resides; provided that no withdrawal shall be permitted unless such parent is informed in a conference with school district officials of the nature of the program.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-5. § 14C-5. Nonresident children--Enrollment and tuition--Joint programs.

A school district may allow a nonresident child of limited English-speaking ability to enroll in or attend its program in transitional bilingual education and the tuition for such a child shall be paid by the district in which he resides.

Any school district may join with any other school district or districts to provide the programs in transitional bilingual education required or permitted by this Article.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-6. § 14C-6. Placement of children.

Children enrolled in a program of transitional bilingual education whenever possible shall be placed in classes with children of approximately the same age and level of educational attainment. If children of different age groups or educational levels are combined, the school district so combining shall ensure that the instruction given each child is appropriate to his or her level of educational attainment and the school districts shall keep adequate records of the educational level and progress of each child enrolled in a program. The maximum student-teacher ratio shall be set by the Superintendent's Office and shall reflect the special educational needs of children enrolled in programs in transitional bilingual education. Programs in transitional bilingual education shall, whenever feasible, be located in the regular public schools of the district rather than separate facilities.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-7. § 14C-7. Participation in extracurricular activities of public schools.

Instruction in courses of subjects included in a program of transitional bilingual edu-

cation which are not mandatory may be given in a language other than English. In those courses or subjects in which verbalization is not essential to an understanding of the subject matter, including but not necessarily limited to art, music and physical education, children of limited English-speaking ability shall participate fully with their English-speaking contemporaries in the regular public school classes provided for said subjects. Each school district shall ensure to children enrolled in a program in transitional bilingual education practical and meaningful opportunity to participate fully in the extracurricular activities of the regular public schools in the district.
Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-8. § 14C-8. Teacher certification--Qualifications--Issuance of certificates.

No person shall be eligible for employment by a school district as a teacher of transitional bilingual education unless he meets the requirements set forth in this Section. School districts shall give preference in employing transitional bilingual education teachers to those individuals who have the relevant foreign cultural background established through residency abroad or by being raised in a non-English speaking environment. The Certification Board shall issue certificates valid for teaching in all grades of the common school in transitional bilingual education programs to any person who presents it with satisfactory evidence that he (a) possesses an adequate speaking and reading ability in a language other than English in which transitional bilingual education is offered and communicative skills in English, and either (b) possesses a current and valid teaching certificate issued pursuant to Article 21 of this Code or (c) possessed within five years previous to his applying for a certificate under this Section a valid teaching certificate issued by a foreign country, or by a State or possession or territory of the United States, or other evidence of teaching preparation as may be determined to be sufficient by the Certification Board; provided that any person seeking a certificate under subsection (c) of this Section must meet the following additional requirements:

- (1) Such persons must be in good health;
- (2) Such persons must be of sound moral character;
- (3) Such persons must be legally present in the United States and possess legal authorization for employment;
- (4) Such persons must not be employed to replace any presently employed teacher who otherwise would not be replaced for any reason.

Certificates issuable pursuant to subsection (c) of this Section shall be issuable only during the 5 years immediately following the effective date of this Act and thereafter for additional periods of one year only upon a determination by the State Board of Education that a school district lacks the number of teachers necessary to comply with the mandatory requirements of Sections 14C-2.1 and 14C-3 of this Article for the establishment and maintenance of programs of transitional bilingual education and said certificates issued by the Certification Board shall be valid for a period of 6 years following their date of issuance and shall not be renewed. Such certificates and the persons to whom they are issued shall be exempt from the provisions of Article 21 of this code except that Sections 21-12, 21-13, 21-16, 21-17, 21-19, 21-21, 21-22, 21-23 and 21-24 shall continue to be applicable to all such certificates.

Amended by P.A. 79-1079, § 1, eff. Oct. 1, 1975.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-9. § 14C-9. Tenure--Minimum salaries.

Any person employed as a teacher of transitional bilingual education whose teaching certificate was issued pursuant to subsection (C) of Section 14C-8 of this Article shall have such employment credited to him for the purposes of determining under the provisions of this Code eligibility to enter upon contractual continued service; provided that such employment immediately precedes and is consecutive with the year in which such person becomes certified under Article 21 of this Code.

For the purposes of determining the minimum salaries payable to persons certified under subsection (C) of Section 14C-8 of this Article, such persons shall be deemed to have been trained at a recognized institution of higher learning.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-10. § 14C-10. Parent and community participation.

School districts shall provide for the maximum practical involvement of parents of children

in transitional bilingual education programs. Each school district shall, accordingly, establish a parent advisory committee which affords parents the opportunity effectively to express their views and which ensures that such programs are planned, operated, and evaluated with the involvement of, and in consultation with, parents of children served by the programs. Such committees shall be composed of parents of children enrolled in transitional bilingual education programs, transitional bilingual education teachers, counselors, and representatives from community groups; provided, however, that a majority of each committee shall be parents of children enrolled in the transitional bilingual education program.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-11. § 14C-11. Preschool or summer school programs.

A school district may establish on a full or part-time basis preschool or summer school programs in transitional bilingual education for children of limited English-speaking ability or join with the other school districts in establishing such preschool or summer programs. Preschool or summer programs in transitional bilingual education shall not substitute for programs in transitional bilingual education required to be provided during the regular school year.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

14C-12. § 14C-12. Account of expenditures--Cost report--Reimbursement.

Each school district shall keep an accurate, detailed and separate account of all monies paid out by it for the programs in transitional bilingual education required or permitted by this Article including transportation costs, and shall annually report thereon for the school year ending June 30 indicating the average per pupil expenditure. Each school district shall be reimbursed for the amount by which such costs exceed the average per pupil expenditure by such school district for the education of children of comparable age who are not in any special education program.

Applications for preapproval for reimbursement for costs of transitional bilingual education programs must be submitted to the State Superintendent's Office at least 60 days before a transitional bilingual education program is started, unless a justifiable exception is granted by the State Superintendent. Applications shall set forth a plan for transitional bilingual education established and maintained in accordance with this Article. Reimbursement claims for transitional bilingual education programs shall be made as follows:

Each school district shall claim reimbursement on a current basis for the first three quarters of the fiscal year and file a final adjusted claim for the school year ended June 30 preceding computed in accordance with rules prescribed by the State Superintendent's Office with the regional superintendent of schools, in triplicate, for approval on forms prescribed by the State Superintendent's Office. Data used as a basis of reimbursement claims shall be for the school year ended on June 30 preceding. School districts shall file estimated claims with the regional superintendent by October 10, January 10 and April 10 respectively, and file final adjusted claims by August 10. Upon receipt of such quarterly claims the regional superintendent shall transmit them to the State Superintendent by October 20, January 20, April 20, and August 20. The State Superintendent's Office before approving any such claims shall determine their accuracy and whether they are based upon services and facilities provided under approved programs. Upon approval he shall transmit by November 15, February 15, May 15 and September 20 the State report of claims to the Comptroller and prepare the vouchers showing the amounts due the respective regions for their school district's reimbursement claims. Upon receipt of the August final adjusted claims the State Superintendent shall make a final determination of the accuracy of such claims. If the money appropriated by the General Assembly for such purpose for any year is insufficient, it shall be apportioned on the basis of the claims approved.

Failure on the part of the school district to prepare and certify the final adjusted claims due under this Section on or before August 10 of any year, and its failure thereafter to prepare and certify such report to the regional superintendent of schools within 10 days after receipt of notice of such delinquency sent to it by the Superintendent's Office by registered mail, shall constitute a forfeiture by the school district of its right to be reimbursed by the State under this Section.

Amended by P.A. 79-1417, § 1, eff. Oct. 1, 1976.

Added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

INDIANA

Annotated Indiana Code. Title 20 - Education.

Section 20-10.1, Chapter 5.5

20-10.1-5.5-1. Definitions. -- "Bilingual-bicultural instruction" means the use of written and spoken English and a non-English language to teach students; it includes instruction in the history and culture of both the United States and the homeland of the non-English language.

"Bilingual-bicultural program" means a course of bilingual-bicultural instruction for non-English dominant students, designed to meet the students' language skill needs as soon as possible.

"Division" means the division of migrant bilingual-bicultural education of the department of public instruction.

"Non-English dominant students" means children who have difficulty performing in classes conducted solely in English because:

- (1) their native tongue is not English; or
- (2) the language most often spoken by the students is not English; or
- (3) the language most often spoken in the students' homes is not English.

"Parent" means the parent, guardian or custodian of any student.

"Teacher of bilingual-bicultural instruction" means a teacher proficient in both English and a non-English language, certified to teach a subject, including the history and culture of both the United States and the homeland of the non-English language. [IC 20-10.1-5.5-1, as added by Acts 1976, P.L. 104, § 1, p. 460.]

20-10.1-5.5-2. Program implementation. -- (a) The superintendent of public instruction shall carry out a bilingual-bicultural program for the improvement of educational opportunities for non-English dominant children by:

(1) Supporting and planning pilot and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for non-English dominant children;

(2) Assisting in the establishment and operation of programs which are designed to stimulate:

(A) the provision of educational services not available to non-English dominant children in sufficient quantity or quality; and

(B) the development and establishment of exemplary programs to serve as models for regular school programs in which non-English dominant children are educated;

(3) Assisting in the establishment and operation of preservice and in-service training programs for persons serving non-English dominant children as educational personnel; and

(4) Encouraging the dissemination of information and materials relating to, and the evaluation of the effectiveness of education programs which may offer educational opportunities to non-English dominant children. In the case of activities of the type described above, preference shall be given to the training of non-English dominant children, including innovative programs related to the educational needs of the non-English dominant children.

(b) The superintendent of public instruction is also authorized to assist and stimulate school corporations in developing and establishing bilingual-bicultural educational services and programs specifically designed to improve educational opportunities for non-English dominant children. These funds may be used:

(1) To provide educational services not available to such children in sufficient quantity or quality, including:

(A) remedial and compensatory instruction, psychological, and other services designed to assist and encourage non-English dominant children to enter, remain in, or re-enter elementary or secondary school;

(B) comprehensive academic and vocational instruction;

(C) instructional materials (such as library books, textbooks, and other printed or published or audio-visual materials) and equipment;

(D) comprehensive guidance, counseling, and testing services;

(E) special education programs for the handicapped;

(F) preschool programs;

(G) other services which meet the purposes of this subsection; and

(2) For the establishment and operation of exemplary and innovative educational

programs and resource centers, involving new educational approaches, methods and techniques designed to enrich programs of elementary and secondary education for non-English dominant children. [IC 20-10.1-5.5-2, as added by Acts 1976, P.L. 104, § 1, p. 460.]

20-10.1-5.5-3. Student participation. -- Students whose dominant language is English shall be allowed to participate in the bilingual-bicultural program unless their participation will hinder the progress of the non-English dominant children.

Children enrolled in a program of bilingual-bicultural education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment, as determined after considering such attainment through the use of all necessary languages. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual-bicultural education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment. The ultimate objective shall be to place the bilingual-bicultural student in the regular course of study. [IC 20-10.1-5.5-3, as added by Acts 1976, P.L. 104, § 1, p. 460.]

20-10.1-5.5-4. Notice to parents. -- Before placing a student in a bilingual-bicultural program, the governing body of the school corporation in which the student resides shall notify the student's parent of the placement. The notice shall be in English and the appropriate non-English language. The notice shall state the purposes, methods and content of the program and shall inform the parent of his right to:

- (1) visit the program; and
- (2) where the student is less than eighteen [18] years old, refuse his child's placement; or withdraw the child from the program. [IC 20-10.1-5.5-4, as added by Acts 1976, P.L. 104, § 1, p. 460.]

20-10.1-5.5-5. Advisory committees. -- (a) Before June 1 of each year, the principal of each school operating a bilingual-bicultural program shall appoint a local advisory committee composed of teachers of bilingual-bicultural instruction, counselors, community members and parents of students enrolled or eligible for enrollment in the bilingual-bicultural program. A majority of the committee members shall be parents of students enrolled or eligible for enrollment in the bilingual-bicultural program.

Before July 1 of each year, the governing body of each school corporation operating a bilingual-bicultural program shall select at least one [1] representative from each local advisory committee to serve on a corporation advisory committee. A majority of the committee members shall be parents of students enrolled or eligible for enrollment in the program.

Members of the local and corporation advisory committees hold their positions for one [1] year periods.

(b) The local and corporation advisory committees shall participate in planning, implementing and evaluating the bilingual-bicultural programs. All bilingual-bicultural programs must be approved by the appropriate local advisory committee before implementation. If the advisory committee refuses to approve a program, the division shall arbitrate the dispute.

(c) All school corporations wishing to implement a bilingual-bicultural program shall apply to the superintendent of public instruction for such program.

(d) All bilingual-bicultural programs must be approved by the commission on general education in order to qualify for the distribution of state funds to school corporations for these programs. [IC 20-10.1-5.5-5, as added by Acts 1976, P.L. 104, § 1, p. 460.]

20-10.1-5.5-6. Part time courses. -- School corporations may establish full or part time summer or preschool bilingual-bicultural courses, but they are not substitutes for bilingual-bicultural programs required during the normal school year. [IC 20-10.1-5.5-6, as added by Acts 1976, P.L. 104, § 1, p. 460.]

20-10.1-5.5-7. Duties of division. -- The division:

(1) shall aid school corporations in developing bilingual-bicultural programs by evaluating instructional materials, compiling material on the theory and practice of bilingual-bicultural instruction, encouraging innovative programs, and otherwise providing technical assistance to the corporations;

(2) shall aid school corporations in developing and administering in-service training programs for school administrators and personnel involved in bilingual-bicultural programs;

(3) shall monitor and evaluate bilingual-bicultural programs conducted by school corporations;

- (4) shall make an annual report on the status of the bilingual-bicultural programs to the governor and the general assembly;
- (5) shall establish bilingual-bicultural educational resource centers for the use of the school corporations;
- (6) may promulgate regulations to implement this chapter [20-10.1-5.5-1--20-10.1-5.5-9]. [IC 20-10.1-5.5-7, as added by Acts 1976, P.L. 104, § 1, p. 460.]

20-10.1-5.5-8. Funding. -- Each school corporation must make application to the division to receive funds under this chapter [20-10.1-5.5-1 -- 20-10.1-5.5-9]. The division director shall determine on a competitive basis, which bilingual-bicultural programs are to receive the funds under this chapter. The criteria are:

- (1) The extent to which the educational needs identified and addressed in the application for funds are for programs for areas having the greatest need in the state.
 - (2) The extent to which educational needs are clearly identified and realistic objectives are carefully planned to meet them.
 - (3) The extent to which the application sets forth quantifiable measurement of the success of the proposed program in providing children who speak a non-English dominant language with language skills necessary for their education.
 - (4) The extent to which the application contains evidence that:
 - (A) the costs of program components are reasonable in relation to the expected benefits; and
 - (B) the proposed program will be coordinated with existing efforts; and
 - (C) all possible efforts are being made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program.
 - (5) The extent to which the application indicates that the personnel to be employed in the program possess qualifications relevant to the objectives of the program.
- The division director may not award in excess of three hundred dollars [\$300] per pupil under this chapter. [IC 20-10.1-5.5-8, as added by Acts 1976, P.L. 104, § 1, p. 460.]

20-10.1-5.5-9. Duration of funding. -- The bilingual-bicultural program of a school corporation may be funded for a minimum of five [5] years under this chapter [20-10.1-5.5-1 -- 20-10.1-5.5-9]. [IC 20-10.1-5.5-9, as added by Acts 1976, P.L. 104, § 1, p. 460.]

IOWA

Iowa Code Annotated. Title XII - Education.

280.4 Medium of Instruction

The medium of instruction in all secular subjects taught in both public and nonpublic schools shall be the English language, except when the use of a foreign language is deemed appropriate in the teaching of any subject or when the student is non-English-speaking. When the student is non-English-speaking, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in the English language or a transitional bilingual program, until the student demonstrates a functional ability to speak, write, read and understand the English language. As used in this section, "non-English-speaking student" means a student whose native language is not English and whose inability or limited ability to speak, write or read English significantly impedes educational progress.

1. The board of directors of a school district may submit an application to the school budget review committee for funds provided by Acts of the 68 G.A. ch. 13, § 7(10) for instruction in the English language, a transitional bilingual, or other special instruction program when support for the program from other federal, state or local sources is not available or is inadequate. The department of public instruction shall review all applications for funding and provide recommendations to the school budget review committee regarding their disposition. The school budget review committee shall not grant funds to a public school for instruction in the English language, a transitional bilingual or other special instruction program unless the program offered by the public school is available to nonpublic school students in the district.

2. The department of public instruction shall promulgate rules relating to the identification of non-English-speaking students who require special instruction under this section and to application procedures for funds available under this section.

3. Grants made to a school pursuant to this section shall not exceed four hundred dollars for each student in the program. A public school may receive funds for nonpublic school students attending the program offered by the public school. However, the amount granted for each nonpublic school student in a program shall not exceed the amount granted for each public school student in the program.
Acts 1974 (65 G.A.) ch. 1168, § 6. Amended by Acts 1979 (68 G.A.) ch. 13, §§ 18, 19, eff. July 1, 1980.

(10) School Budget Review Committee

From the funds appropriated to the school budget review committee for fiscal year 1980-1981 nine hundred thousand (900,000) dollars shall be used exclusively for transportation costs unusually increased above the normal rate of inflation, including costs arising because of the need for replacement vehicles and the repair of vehicles and two hundred thousand (200,000) dollars or as much thereof as necessary shall be used exclusively for grants to public schools and for nonpublic school pupils for programs for instruction in the English language, a transitional bilingual program, or other special instruction program within the requirements of sections eighteen (18) and nineteen (19) of this Act. From the two hundred thousand (200,000) dollars for a transitional bilingual, instruction in the English language or other special instruction program, the school budget review committee may allocate an amount not to exceed ten thousand (10,000) dollars to the department of public instruction to cover the actual and necessary costs of administering the program as required in section nineteen (19) of this Act.

KANSAS

Kansas Statutes Annotated. Chapter 72 - Education.

SENATE BILL No. 7 - 1979 Legislation

Be it enacted by the Legislature of the State of Kansas.

New Section 1. As used in this act:

- (a) "School district" means any public school district.
- (b) "Board" means the board of education of any school district.
- (c) "State board" means the state board of education.
- (d) "Department" means the state department of education.
- (e) "Educationally deprived pupils" means national origin-minority pupils who because of their inability to speak and understand the English language are excluded from effective participation in the educational programs offered by a school district.
- (f) "Program" means a program of bilingual education designed primarily to develop the English language skills of educationally deprived pupils, to reduce the educational deficiencies of such pupils and to integrate such pupils into regular educational programs.

New Section 2. (a) In order to be eligible for state aid under this act, programs of bilingual education shall meet standards and criteria set by the state board.

(b) The board of education may employ non-certificated personnel in an instructional capacity for the program but such personnel shall be required to serve under the supervision of a certificated employee of the school district.

New Section 3. The boards of education of any two or more school districts may make and enter into agreements providing for cooperative operation and administration of a program of bilingual education on a shared-cost basis. Any school district which is a party to such a cooperative agreement may be designated the sponsoring district under such agreement. The agreement entered into shall provide for a separate fund of the sponsoring school district, to which each contracting district shall pay the moneys due from it under the agreement, and all such moneys received by the sponsoring district shall be credited to such fund. The expenses of a sponsoring district attributable to bilingual education shall be paid from such fund and payment of such expenses shall not be operating expenses of the sponsoring district. Payments from the general fund of a contracting district to a sponsoring district and transfers of money from the general fund of a sponsoring district to the separate fund provided for hereunder shall be operating expenses. Any agreement

entered into under authority of this section shall be subject to change or termination by the legislature; and within the limitations provided by law, any such agreement may be changed or terminated by mutual agreement of the contracting school districts.

New Section 4. The state board may adopt rules and regulations for the administration of this act and shall:

- (a) Prescribe and adopt criteria and procedures for assessment and identification of educationally deprived pupils including identification of the specific educational deficiencies of such pupils;
- (b) establish standards and criteria for procedures, activities and services to be provided in a program to develop the English language skills and to reduce the educational deficiencies of educationally deprived pupils including entry and exit procedures based on the English language proficiency of such pupils; and
- (c) establish standards and criteria for reviewing, evaluating and approving school district programs and applications of boards for state aid.

New Section 5. The state board shall be responsible for the allocation and distribution of state aid for bilingual education in accordance with appropriation acts and the statutes of this state. Such moneys shall be expended only in accordance with and for the purposes specified in this act. Payments under this act may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

New Section 6. Each board which has established and is maintaining a program and desires to secure state aid for part of the cost of establishing and maintaining the same shall certify and file an application with the department for the approval of such program. Said applications shall be on a form prescribed and furnished by the department and shall contain such information as the state board shall require and shall be filed annually at a time to be determined and specified by the state board. Approval by the state board of the program and the application shall be prerequisite to payment of state aid to any board.

New Section 7. In order to be approved for payment of state aid, any application under section 6 of this act shall contain the following information:

- (a) The number of educationally deprived pupils enrolled in the school district and the number of such pupils who are participating in the program;
- (b) the number and kind of additional personnel employed by the school district for the program and necessary, as determined by the state board, to meet the educational needs of educationally deprived pupils;
- (c) a description of the scope, objectives and activities of the program for the year;
- (d) the amount budgeted by the board for its program;
- (e) the amount of the actual expenses incurred by the school district in its program for the purpose of developing the English language skills of educationally deprived pupils and reducing the educational deficiencies of such pupils; and
- (f) such additional information as determined by the state board.

New Section 8. There is hereby established in every school district a fund which shall be called the "bilingual education fund", which fund shall consist of all moneys deposited therein or transferred thereto according to law. Notwithstanding any other provision of law, all moneys received by the school district from whatever source for bilingual education programs established under this act shall be credited to the fund established by this section. The expenses of a district directly attributable to such bilingual education programs shall be paid from the bilingual education fund.

New Section 9. (a) In each school year the state board, in accordance with the provisions of this act and with appropriations for programs established and maintained under this act, shall allocate and distribute state moneys to boards for the purpose of assisting in the establishment or maintenance of programs. Each board shall be entitled to receive one hundred fifty dollars (\$150) for each educationally deprived pupil who is participating in an approved program. In no event shall the amount allocated and distributed to any board under this act exceed the amount of the actual expenses incurred by the school district in its program for the purpose of developing the English language skills of educationally deprived pupils and reducing the educational deficiencies of such pupils.

- (b) The state board shall prescribe all forms necessary for reporting under this act.

(c) Every board shall make such periodic and special reports of statistical and financial information to the state board as it may request.

New Section 10. The state board, in cooperation with the advisory committee on Mexican American affairs and with other appropriate agencies and organizations, may provide any board, upon its request therefor, with technical advice and assistance in the establishment and operation of a program of bilingual education, including assistance in conducting in-service training programs for personnel, and may make studies and gather and disseminate information relating to materials, resources, procedures, programs and personnel which are or may become available to school districts for utilization in such programs of bilingual education.

Section 11. K.S.A. 72-1101 is hereby amended to read as follows:
72-1101. Every accredited elementary school shall teach reading, writing, arithmetic, geography, spelling, English grammar and composition, history of the United States and of the state of Kansas, civil government and the duties of citizenship, health and hygiene, together with such other subjects as the state board may determine. The state board shall be responsible for the selection of subject matter within the several fields of instruction and for its organization into courses of study and instruction for the guidance of teachers, principals and superintendents.

Section 12. K.S.A. 1978 Supp. 72-7062, as amended by section 4 of 1979 Senate Bill No. 8, is hereby amended to read as follows: 72-7062. Any revenues of a district, not required by law to be deposited in or credited to a specific fund, shall be deposited in or credited to any fund of the district specified in K.S.A. 1978 Supp. 72-7057 to 72-7061, inclusive, and amendments thereto, or to the capital outlay fund, the adult education fund ~~or~~, the adult supplementary education fund, ~~or the bilingual education fund~~, except that revenues earned from the investment of an activity fund of a district, authorized under the provisions of K.S.A. 1978 Supp. 12-1675, and amendments thereto, may, at the discretion of the board of any district, be deposited in or credited to such activity fund of such district. To the extent that K.S.A. 72-1623 and 79-2958 conflict with this section, this section shall control.

Section 13. K.S.A. 1978 Supp. 72-7063, as amended by section 5 of 1979 Senate Bill No. 8, is hereby amended to read as follows: 72-7063. (a) Any lawful transfer of money from the general fund of a district to any other fund shall be an operating expense in the year the transfer is made. In addition to other transfers authorized by law and subject to the conditions imposed under subsection (b), the board of any district may transfer moneys from its general fund to its capital outlay fund, transportation fund, special education fund, food service fund, driver training fund, adult education fund, adult supplementary education fund ~~or~~, vocational education fund ~~or bilingual education fund~~. Except as provided in subsection (c), expenditures for capital outlay, transportation, special education, food service, driver training, adult basic education, adult supplementary education ~~and~~, vocational education ~~and bilingual education~~ shall not be made from the general fund of a district.

(b) No board of any district shall transfer moneys in any amount from its general fund to its capital outlay fund in any school year unless such district, in its adopted budget for such year, shall have budgeted a capital outlay levy of not less than three and one-half (3½) mills.

(c) Any district may make capital outlay expenditures from its general fund for acquisition of equipment and repair of school buildings.

Section 14. K.S.A. 1978 Supp. 72-7071 is hereby amended to read as follows: 72-7071. (a) The state board of tax appeals may authorize a district to increase its legally adopted budget of operating expenses or its expenditures upon a finding by the board that:

(1) The construction of new or additional school facilities causes an increase in operating expenses greater than the district is permitted to budget under the limitations provided in this act.

(2) The requirements of law to provide special education cause an increase in operating expenses greater than the district is permitted to budget under the limitations provided in this act.

(3) The requirements of law to provide transportation of students cause an increase in operating expenses greater than the district is permitted to budget under the limi-

tations provided in this act.

(4) Unusual occurrences have affected or will affect the enrollment of the district so as to cause an increase in operating expenses greater than the district is permitted to budget or expend under the limitations provided in article 70 of chapter 72 of Kansas Statutes Annotated.

(5) Increases in rates or charges for supplying water, heat or electricity to the district cause an increase in operating expenses greater than the district is permitted to budget under the limitations provided in article 70 of chapter 72 of Kansas Statutes Annotated.

(6) Payment of compensation to any certificated elementary guidance counselor, which compensation was not budgeted in the preceding school year, causes an increase in operating expenses greater than the district is permitted to budget under the limitations provided in article 70 of chapter 72 of Kansas Statutes Annotated.

(7) The establishment of a new program or the enhancement of an existing program of bilingual education causes an increase in operating expenses greater than the district is permitted to budget under the limitations provided in article 70 of chapter 72 of Kansas Statutes Annotated.

(b) Amounts obtained by a district as a result of an increase in its legally adopted budget of operating expenses authorized by the state board of tax appeals under this section shall be budgeted and expended exclusively for the purpose for which such increase was authorized.

Section 15. K.S.A. 1978 Supp. 72-8230 is hereby amended to read as follows: 72-8230. In the event the boards of education of any two or more school districts enter into agreements pursuant to resolutions adopted by each such board of education under the provisions of K.S.A. 12-2904, for the purpose of providing educational services, the following conditions shall apply:

(a) Any such agreement shall specify that the separate legal entity established thereby shall be administered by a board of directors which shall be composed of at least one (1) member from the board of education of each school district which enters into any such agreement. Each board of education shall appoint its representative or representatives to the board of directors. The terms of office of the members of the board of directors shall expire concurrently with their terms as board of education members. Vacancies in the membership of the board of directors shall be filled in the same manner as originally filled within thirty (30) days from the date of the vacancy.

(b) Any power or powers, privileges or authority exercised by the separate legal entity established under any such agreement which relate to educational services shall be limited to special education, vocational education, career education, bilingual education, media services, curriculum development, and in-service training for staff programs.

(c) The duration of any such agreement for joint or cooperative action in providing special education services or vocational education services shall be for a term of at least three (3) years but not exceeding five (5) years.

(d) Any such agreement shall be effective only after approval by the state board of education.

(e) Any such agreement shall be subject to change or termination by the legislature.

(f) The separate legal entity established under any such agreement and the board of directors of any such separate legal entity shall be considered and shall have the powers and duties, except for the power to levy and collect taxes, of a unified school district and the board of education of a unified school district for the following purposes:

(1) The performance of any obligation or responsibility imposed upon a unified school district or a board of education by any law relating to the educational services designated in subsection (b) of this section;

(2) Employer-employee relations, including the adoption of a resolution for affiliation with the Kansas public employees' retirement system provided for in K.S.A. 74-4929, and amendments thereto, old-age and survivors insurance coverage provided for in article 23 of chapter 40 of Kansas Statutes Annotated, compensation, the continuing contract law, due process procedures and professional negotiation provided for in article 54 of chapter 72 of Kansas Statutes Annotated;

(3) The requirements of the cash-basis law provided for in article 11 of chapter 10 of Kansas Statutes Annotated;

(4) Receiving, budgeting for and expending state and federal funds except for any distributions made under the provisions of the school district equalization act and any moneys received under the provisions of title I of public law 874.

(g) In the event any such agreement is renegotiated upon the partial or complete termination of such agreement, the resulting legal entity thereby established shall assume and be the successor in every way to the powers, duties, functions and obligations of the previous legal entity established under the prior agreement.

(h) Payments from the general fund of each school district which enters into any such agreement for the purpose of financing the joint or cooperative provision of educational services under such agreement shall be operating expenses.

Section 16. K.S.A. 1978 Supp. 74-6504 is hereby amended to read as follows: 74-6504. The advisory committee shall have the following functions, powers and duties in ~~advising~~ the commission on civil rights:

- (a) Gather and disseminate information and conduct hearings, conferences and special studies on problems and programs concerning Mexican Americans;
- (b) Coordinate, assist and cooperate with the efforts of state departments and agencies to serve the needs of the Mexican American especially in the area of culture, education, employment, health, housing, welfare and recreation;
- (c) Develop, coordinate and assist other public and private organizations with understanding the problems of Mexican Americans;
- (d) Develop, coordinate and assist other public and private organizations to provide services to Mexican Americans;
- (e) Propose new programs concerning Mexican Americans;
- (f) Evaluate existing programs and proposed legislation concerning Mexican Americans;
- (g) Stimulate public awareness of the problems of Mexican Americans by conducting a program of public education; ~~and~~
- (h) Conduct training programs for community leadership and service project staff;
- (i) ~~To~~ Accept contributions from any person to assist in the effectuation of this section and to seek and enlist the cooperation of private, charitable, religious, labor, civic and benevolent organizations for the purposes of this section;
- (j) ~~To~~ Solicit, receive and expend federal funds to effectuate the purposes of this act and ~~to enter into contracts and agreements with any federal agency for such purposes; and~~
- (k) ~~To~~ Establish advisory committees on special subjects; and
- (l) Cooperate with the state board of education in advising and assisting school districts, upon request, in conducting in-service training programs for bilingual education personnel.

Section 17. K.S.A. 72-1101 and K.S.A. 1978 Supp. 72-7062, as amended by section 4 of 1979 Senate Bill No. 8, 72-7063, as amended by section 5 of 1979 Senate Bill No. 8, 72-7071, 72-8230 and 74-6504 are hereby repealed.

Section 18. This act shall take effect and be in force from and after its publication in the statute book.

KENTUCKY

No statutory or constitutional provisions.

LOUISIANA

Louisiana Revised Statutes. Title 17 - Education.

Section 273.

A. Commencing with the 1976-1977 school year, each parish school board and city school board in the state is hereby authorized to establish as a part of the general curriculum of instruction the teaching of a second language. The second language curriculum shall be so established as to include a program extending upward through all grades, commencing in the first grade and extending upwards to the twelfth grade, in a well articulated, sequential manner so as to afford all school children in the state the opportunity of attaining proficiency in a second language.

B. (1) If a parish or city school board does not establish a second language program by May 30, 1976, such a program shall be required upon presentation of a petition

requesting the instruction of a particular second language. The petition shall be addressed and presented to the parish or city school board and shall request the instruction to be in a particular school. It shall contain the signatures of at least twenty-five percent of the heads of households of students attending a particular school within the jurisdiction of the parish or city school board. The superintendent of the parish or city schools shall determine the required number of signatures needed for each school and shall certify whether or not a petition contains the necessary number of signatures. Parents may petition to initiate second language programs in elementary schools, junior high schools, and senior high schools.

(2) Upon receiving a certified petition, the parish or city school board shall establish the teaching of the designated second language in said school as a part of the general curriculum of instruction. The instruction of the second language shall be developed to include the teaching of the language in each grade of said school in a well articulated and sequential manner so as to afford to the student the opportunity of attaining proficiency in the designated second language. Any student shall be exempted from the second language program upon request of the parent or guardian. The parent shall direct this request to the principal of the school or to the superintendent of the parish or city school system.

(3) Instructors in a second language would be regularly assigned certified teachers at the secondary level or certified second language specialist teachers in the elementary grades one through eight, itinerant in one or more schools, and/or foreign associate teachers selected and approved by the State Department of Education in cooperation with other appropriate state agencies. A second language specialist teacher with a full schedule of second language classes would not be counted in the pupil-teacher ratio in the school of assignment, but would be counted as an additional teacher.

(4) The cost of implementing a second language program at the secondary level (junior and/or senior high schools) will be borne by the local school system. The cost of implementing second language programs in the elementary grades over and beyond the base salary of regularly assigned teachers will be paid from state funds appropriated as a part of the total education budget of the State Department of Education.

C. The State Board of Elementary and Secondary Education shall establish guidelines, regulations, and policies for the implementation of a comprehensive curriculum in a second language in a well articulated sequential manner in order to carry out the intent of this Section.

MAINE

Maine Revised Statutes. Title 20.

Chapter 5, §102

16. Bilingual education. The commissioner is empowered to cooperate with the United States Department of Health, Education and Welfare in carrying out the Bilingual Education Program Act and any other federal programs as may concern the improvement of educational programs designed to meet the educational needs of children in areas with nonEnglish-speaking families.

Subject to the annual approval of the commissioner, the school committee or the school directors of any administrative unit having children from nonEnglish-speaking families may provide programs involving bilingual education techniques designed to provide children with educational experiences to enhance their learning. Bilingual instructors shall be subject to section 59 requiring certification of teachers by the State Board of Education, in both course content and language of instruction. Certified bilingual instructors shall not be required for the provision of transitional instruction at any grade level. "Transitional instruction" means instruction given to a nonEnglish-speaking student for the purpose of enabling the student to be instructed in English within a reasonable length of time. Transitional instruction shall not be construed as including bilingual education programs, as defined in United States Code Annotated, Title 20, section 880b-1, which do not include students of limited English speaking ability.

MARYLAND

Annotated Code of Maryland. Title 8 - Education.

§ 8-101. Definitions.

(a) In general. — In this subtitle the following words have the meanings indicated.

(b) Disadvantaged child. — "Disadvantaged child" means a child who:

(1) Because of environmental conditions, is not achieving at a level that is scholastically up to his potential abilities;

(2) Has to compensate for his inability to profit from the normal educational program;

(3) Is 3 years old or older and under 19 and has not graduated from high school;

(4) Has the potential to complete successfully a regular educational program leading to graduation from a high school; and

(5) Because of home and community environment, is subject to language, cultural, and economic disadvantages that make his completion of the regular program leading to graduation unlikely without special efforts by school authorities to provide stimulation of his potential in addition to the efforts involved in providing the regular educational programs.

(c) Program of compensatory education. — "Program of compensatory education" means a program adopted by a county board for any of the grades prekindergarten through 12 that:

(1) Is in the form required by this subtitle;

(2) Supplements the regular educational programs of the county board;

(3) Includes a plan for the identification of disadvantaged children; and

(4) Has the purpose of providing stimulation of the intellectual abilities of disadvantaged children. (An. Code 1957, art. 77, § 106A; 1978, ch. 22, § 2.)

§ 8-102. Establishment of programs of compensatory education.

To the extent that funds are provided in the State budget or are available from other sources, the State Board may establish programs of compensatory education of the following types:

(1) New or modified teacher training curricula to incorporate instruction in methods and techniques:

(i) Developed by competent authorities; and

(ii) Designed to enable teachers to identify and teach disadvantaged children effectively;

(2) Research and consultative projects undertaken to assist State agencies and the county boards in carrying out their responsibilities under this subtitle; and

(3) Evaluation, demonstration, and distribution of findings that are related to programs of compensatory education independently or in cooperation with any public or private agency or organization that engages in research and development designed to overcome disadvantage. (An. Code 1957, art. 77, § 106B; 1978, ch. 22, § 2.)

§ 8-103. Duties of State Superintendent.

The State Superintendent shall:

(1) Supervise and control each program of compensatory education provided in this State;

(2) Take any action necessary to coordinate these programs;

(3) Approve or disapprove, as may be appropriate, each county program application; and

(4) Provide technical and consultative assistance to the county boards. (An. Code 1957, art. 77, § 106C; 1978, ch. 22, § 2.)

§ 8-104. Guidance for county boards.

(a) Standards established. — The State Board shall establish standards to guide county boards in applying for:

(1) Any State funds that are provided in the State budget specifically for the purposes of this subtitle; and

(2) Funds provided under the federal Elementary and Secondary Education Act of 1965.

(b) Applicability of standards. -- These standards apply to the extent that they do not conflict with the federal Elementary and Secondary Education Act of 1965 or regulations adopted under that act. (An. Code 1957, art. 77, § 106B; 1978, ch. 22, § 2.)

§ 8-105. Comprehensive compensatory education plan.

Each county board that applies for State funds under this subtitle shall include a comprehensive compensatory education plan in its application that:

(1) Emphasizes a preventive program aimed at disadvantaged or potentially disadvantaged children; and

(2) Has as an ultimate goal:

(i) Teaching disadvantaged or potentially disadvantaged children to read;

(ii) Awakening their interest in learning;

(iii) Giving them a sense of success in school achievement;

(iv) Preventing their alienation from the school; and

(v) Preventing their early departure from school. (An. Code 1957, art. 77, § 106B; 1978, ch. 22, § 2.)

§ 8-106. Program funds may be provided in State budget.

State funds to assist in developing and implementing the programs authorized under this subtitle may be provided in the State budget. (An. Code 1957, art. 77, § 106B; 1978, ch. 22, § 2.)

§ 8-107. Child may participate in other programs.

A child who participates in a program of compensatory education under this subtitle also may participate in any other potentially beneficial program that is offered in the public schools or otherwise. (An. Code 1957, art. 77, § 106A; 1978, ch. 22, § 2.)

MASSACHUSETTS

Massachusetts General Laws Annotated. Title XII - Education.

Chapter 69, Section 35

There shall be established within the department, subject to appropriation, a bureau of transitional bilingual education which shall be headed by a project director. The project director shall be appointed by the board of education upon the recommendation of the commissioner, and said project director shall have the minimum qualifications of a bachelor's degree in either business administration, liberal arts, or science, and shall have at least two years of documented administrative or teaching experience. The project director shall file a quarterly report with the board of education, the clerk of the house of representatives and the clerk of the senate.

The bureau for transitional bilingual education shall be charged with the following duties: (1) to assist the department in the administration and enforcement of the provisions of chapter seventy-one A and in the formulation of the regulations provided for in said chapter; (2) to study, review, and evaluate all available resources and programs that, in whole or in part, are or could be directed toward meeting the language capability needs of children and adults of limited English-speaking ability resident in the commonwealth; (3) to compile information about the theory and practice of transitional bilingual education in the commonwealth and elsewhere, to encourage experimentation and innovation in the field of transitional bilingual education, and to make an annual report to the general court and the governor; (4) to provide for the maximum practicable involvement of parents of children of limited English-speaking ability in the planning, development, and evaluation of transitional bilingual education programs in the districts serving their children, and to provide for the maximum practicable involvement of parents of children of limited English-speaking ability, teachers and teachers' aides of transitional bilingual education, community coordinators, representatives of community groups, educators and laymen knowledgeable in the field of transitional bilingual education in the formulation of policy and procedures relating to the administration of chapter seventy-one A by the

commonwealth; (5) to consult with other public departments and agencies, including but not limited to, the department of community affairs, the department of public welfare, the division of employment security, and the Massachusetts commission against discrimination, in connection with the administration of said chapter; (6) to make recommendations to the department in the areas of pre-service and in-service training for teachers of transitional bilingual education programs, curriculum development, testing and testing mechanisms, and the development of materials for transitional bilingual education courses; and (7) to undertake any further activities which may assist the department in the full implementation of said chapter.

Chapter 71A

§ 1. Definitions

The following words, as used in this chapter shall, unless the context requires otherwise, have the following meanings:

"Department", the department of education.

"School committee", the school committee of a city, town or regional school district.

"Children of limited English-speaking ability", (1) children who were not born in the United States whose native tongue is a language other than English and who are incapable of performing ordinary classwork in English; and (2) children who were born in the United States of non-English speaking parents and who are incapable of performing ordinary classwork in English.

"Teacher of transitional bilingual education", a teacher with a speaking and reading ability in a language other than English in which bilingual education is offered and with communicative skills in English.

"Program in transitional bilingual education", a full-time program of instruction (1) in all those courses or subjects which a child is required by law to receive and which are required by the child's school committee which shall be given in the native language of the children of limited English-speaking ability who are enrolled in the program and also in English, (2) in the reading and writing of the native language of the children of limited English-speaking ability who are enrolled in the program and in the oral comprehension, speaking, reading and writing of English, and (3) in the history and culture of the country, territory or geographic area which is the native land of the parents of children of limited English-speaking ability who are enrolled in the program and in the history and culture of the United States. Added by St. 1971, c. 1005, § 2.

§ 2. Language classification of children; establishment of program; period of participation; examination

Each school committee shall ascertain, not later than the first day of March, under regulations prescribed by the department, the number of children of limited English-speaking ability within their school system, and shall classify them according to the language of which they possess a primary speaking ability.

When, at the beginning of any school year, there are within a city, town or school district not including children who are enrolled in existing private school systems, twenty or more children of limited English-speaking ability in any such language classification, the school committee shall establish, for each classification, a program in transitional bilingual education for the children therein; provided, however, that a school committee may establish a program in transitional bilingual education with respect to any classification with less than twenty children therein.

Every school-age child of limited English-speaking ability not enrolled in existing private school systems shall be enrolled and participate in the program in transitional bilingual education established for the classification to which he belongs by the city, town or school district in which he resides for a period of three years or until such time as he achieves a level of English language skills which will enable him to perform successfully in classes in which instruction is given only in English, whichever shall first occur.

A child of limited English-speaking ability enrolled in a program in transitional bilingual education may, in the discretion of the school committee and subject to the approval of the child's parent or legal guardian, continue in that program for a period longer than three years.

An examination in the oral comprehension, speaking, reading and writing of English, as prescribed by the department, shall be administered annually to all children of limited English-speaking ability enrolled and participating in a program in transitional bilingual

education. No school committee shall transfer a child of limited English-speaking ability out of a program in transitional bilingual education prior to his third year of enrollment therein unless the parents of the child approve the transfer in writing, and unless the child has received a score on said examination which, in the determination of the department, reflects a level of English language skills appropriate to his or her grade level.

If later evidence suggests that a child so transferred is still handicapped by an inadequate command of English, he may be reenrolled in the program for a length of time equal to that which remained at the time he was transferred.

Added by St. 1971, c. 1005, § 2.

§ 3. Notice of enrollment; content; rights of parents

No later than ten days after the enrollment of any child in a program in transitional bilingual education the school committee of the city, town or the school district in which the child resides shall notify by mail the parents or legal guardian of the child of the fact that their child has been enrolled in a program in transitional bilingual education. The notice shall contain a simple, non-technical description of the purposes, method and content of the program in which the child is enrolled and shall inform the parents that they have the right to visit transitional bilingual education classes in which their child is enrolled and to come to the school for a conference to explain the nature of transitional bilingual education. Said notice shall further inform the parents that they have the absolute right, if they so wish, to withdraw their child from a program in transitional bilingual education in the manner as hereinafter provided.

The notice shall be in writing in English and in the language of which the child of the parents so notified possesses a primary speaking ability.

Any parent whose child has been enrolled in a program in transitional bilingual education shall have the absolute right, either at the time of the original notification of enrollment or at the close of any semester thereafter, to withdraw his child from said program by written notice to the school authorities of the school in which his child is enrolled or to the school committee of the city, town or the school district in which his child resides.

Added by St. 1971, c. 1005, § 2.

§ 4. Non-resident children; enrollment and tuition; joint programs

A school committee may allow a non-resident child of limited English-speaking ability to enroll in or attend its program in transitional bilingual education and the tuition for such a child shall be paid by the city, town or the district in which he resides.

Any city, town or school district may join with any other city, town, school district or districts to provide the programs in transitional bilingual education required or permitted by this chapter.

Added by St. 1971, c. 1005, § 2. Amended by St. 1978, c. 367, § 70F.

§ 5. Participation in extra-curricular activities of public schools; placement of children

Instruction in courses of subjects included in a program of transitional bilingual education which are not mandatory may be given in a language other than English. In those courses or subjects in which verbalization is not essential to an understanding of the subject matter, including but not necessarily limited to art, music and physical education, children of limited English-speaking ability shall participate fully with their English-speaking contemporaries in the regular public school classes provided for said subjects. Each school committee of every city, town or school district shall ensure to children enrolled in a program in transitional bilingual education practical and meaningful opportunity to participate fully in the extra-curricular activities of the regular public schools in the city, town or district. Programs in transitional bilingual education shall, whenever feasible, be located in the regular public schools of the city, town or the district rather than separate facilities.

Children enrolled in a program of transitional bilingual education whenever possible shall be placed in classes with children of approximately the same age and level of educational attainment. If children of different age groups or educational levels are combined, the school committee so combining shall ensure that the instruction given each child is appropriate to his or her level of educational attainment and the city, town or the school districts shall keep adequate records of the educational level and progress of each child

enrolled in a program. The maximum student-teacher ratio shall be set by the department and shall reflect the special educational needs of children enrolled in programs in transitional bilingual education.

Added by St. 1971, c. 1005, § 2.

§ 6. Teacher's certification and certificate; qualifications and requirements; compensation; exemptions

The board of education, hereinafter called the board, shall grant certificates to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. The requirements of section thirty-eight G of chapter seventy-one shall not apply to the certification of teachers of transitional bilingual education. Teachers of transitional bilingual education, including those serving under exemptions as provided in this section, shall be compensated by local school committees not less than a step on the regular salary schedule applicable to permanent teachers certified under said section thirty-eight G.

The board shall grant certificates to teachers of transitional bilingual education who present the board with satisfactory evidence that they (1) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (2) are in good health, provided that no applicant shall be disqualified because of blindness or defective hearing; (3) are of sound moral character; (4) possess a bachelor's degree or an earned higher academic degree or are graduates of a normal school approved by the board; (5) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the board; and (6) are legally present in the United States and possess legal authorization for employment.

For the purpose of certifying teachers of transitional bilingual education the board may approve programs at colleges or universities devoted to the preparation of such teachers. The institution shall furnish the board with a student's transcript and shall certify to the board that the student has completed the approved program and is recommended for a teaching certificate.

No person shall be eligible for employment by a school committee as a teacher of transitional bilingual education unless he has been granted a certificate by the board; provided, however, that a school committee may prescribe such additional qualifications, approved by the board. Any school committee may upon its request be exempted from the certification requirements of this section for any school year in which compliance therewith would in the opinion of the department constitute a hardship in the securing of teachers of transitional bilingual education in the city, town or regional school district. Exemptions granted under this section shall be subject to annual renewal by the department.

A teacher of transitional bilingual education serving under an exemption as provided in this section shall be granted a certificate if he achieves the requisite qualifications therefor. Two years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring the status of serving at the discretion of the school committee as provided in section forty-one of chapter seventy-one, and said two years shall be deemed to immediately precede, and be consecutive with, the year in which a teacher becomes certified. In requesting an exemption under this section a school committee shall give preference to persons who have been certified as teachers in their country or place of national origin.

All holders of certificates and legal exemptions under the provisions of section thirty-eight G of chapter seventy-one who provide the board with satisfactory evidence that they possess a speaking and reading ability in a language other than English may be certified under this section as a teacher of transitional bilingual education.

Nothing in this chapter shall be deemed to prohibit a school committee from employing to teach in a program in transitional bilingual education a teacher certified under section thirty-eight G of chapter seventy-one, so long as such employment is approved by the department.

Added by St. 1971, c. 1005, § 2.

§ 7. Pre-school or summer school programs

A school committee may establish on a full or part-time basis pre-school or summer school programs in transitional bilingual education for children of limited English-speaking ability or join with the other cities, towns or school districts in establishing such pre-school or summer programs. Pre-school or summer programs in transitional bilin-

qual education shall not substitute for programs in transitional bilingual education required to be provided during the regular school year.
Added by St. 1971, c. 1005, § 2.

§ 8. Reimbursement of transportation costs

The state treasurer shall annually, on or before November twentieth, reimburse any city, town, regional school district or independent vocational school for expenditures incurred during the previous fiscal year in the transportation of any pupil enrolled in a transitional bilingual education program and who resides at least one and one-half miles from the school which the pupil attends, as measured by a commonly travelled route, in the manner hereinafter defined. Such reimbursements shall include: first, an amount for each pupil which is equal to the average transportation services expenditure per pupil, enrolled in regular day program in said city, town, regional school district or independent vocational school during said fiscal year, provided that each such pupil enrolled in regular day program resides at least one and one-half miles from the school which said pupil attends; and second, the entire amount by which the average transportation services expenditure per pupil enrolled in such a bilingual program in said city, town, regional school district or independent vocational school during said fiscal year may exceed the aforesaid average transportation services expenditure per pupil enrolled in regular day program. In no instance, however, shall the amount or reimbursement for such excess cost per pupil exceed one hundred and ten per cent of the average of such excess costs per pupil in all cities, towns, regional school districts and independent vocational schools in the commonwealth during the fiscal year in which such expenditures were made.

In determining each said average transportation services expenditure per pupil enrolled in regular day program in each city, town, regional school district and independent vocational school, the department of education shall use the transportation services expenditure per pupil eligible for reimbursement under sections seven A, seven B, or sixteen C of chapter seventy-one, whichever is higher, during the same fiscal year. The commissioner of education may, by regulation, under the direction of the state board of education, further define the expenditures per pupil to be used in aforesaid computations.
Added by St. 1971, c. 1005, § 2. Amended by St. 1978, c. 367, § 70G.

§ 9. Rules and regulations; promulgation

In addition to the powers and duties prescribed in previous sections of this chapter, the department shall exercise its authority and promulgate rules and regulations to achieve the full implementation of all provisions of this chapter. A copy of the rules and regulations issued by the department shall be sent to all cities, towns and school districts participating in transitional bilingual education.
Added by St. 1971, c. 1005, § 2.

MICHIGAN

Michigan Statutes Annotated. Title 15 - Education.

(School Code of 1976. §15.41151 - §15.41158)

§ 15.41151 English language instruction.

(1) English shall be the basic language of instruction in the public and nonpublic schools of this state and in state institutions.

Religious instruction, foreign language instruction, bilingual instruction. (2) Subsection (1) shall not be construed as applying to:

(a) Religious instruction in a nonpublic school given in a foreign language in addition to the regular course of study.

(b) A course of instruction in a foreign language in which the pupil acquires sufficient proficiency to be conversant in the foreign language.

(c) Bilingual instruction, as defined in section 1152, which will assist children of limited English-speaking ability to achieve reasonable efficiency in the English language. (MCL §390.1151.)

§ 15.41152 Definitions.

As used in sections 1152 to 1158:

Bilingual instruction. (a) "Bilingual instruction" means the use of 2 languages, 1 of which is English, as media of instruction for speaking, reading, writing, or comprehension. "Bilingual instruction" may include instruction in the history and culture of the country, territory, or geographic area associated with the language spoken by children of limited English-speaking ability who are enrolled in the program and in the history and culture of the United States.

Children of limited English-speaking ability. (b) "Children of limited English-speaking ability" means children who have or reasonably may be expected to have difficulty performing ordinary classwork in English because their native tongue is a language other than English or because they come from a home or environment where the primary language used is a language other than English.

In-service training. (c) "In-service training" means short-term or part-time training for administrators, teachers, teacher aides, paraprofessionals, or other education personnel engaged in bilingual instruction programs for children of limited English-speaking ability. (MCL §380.1152.)

§ 15.41153 Bilingual instruction programs; 20 or more children.

(1) The board of a school district having an enrollment of 20 or more children of limited English-speaking ability in a language classification in grades K to 12 shall establish and operate a bilingual instruction program for those children.

Fewer than 20 children. (2) The board may establish and operate a bilingual instruction program with respect to a language classification if the school district has fewer than 20 children of limited English-speaking ability.

Placement of children; combining age or grade levels. (3) Children enrolled in a bilingual instruction program operated under this section may be placed in classes with other children of approximately the same age and grade level. If children of different age groups or grade levels are combined, the board shall insure that the instruction given each child is appropriate to the child's level of educational attainment.

Enrolling in another district's program; tuition; transportation. (4) A child of limited English-speaking ability residing in a district which does not have an appropriate bilingual instruction program or which is not required to have a bilingual instruction program may enroll in a program in another school district. Tuition for the child shall be paid, and transportation shall be provided, by the school district in which the child resides.

Intermediate bilingual instruction-support program; establishment; membership; carrying children; calculation. (5) If fewer than 20 children of limited English-speaking ability in a language classification are enrolled in a school district, the intermediate school board shall determine whether the total number of these children residing in its constituent districts which do not operate bilingual instruction programs warrants the establishment of an intermediate bilingual instruction-support program. An intermediate school district operating or contracting for the operation of a bilingual program or service may carry children in membership in the same manner as a local school district and shall be entitled to its proportionate share of state funds available for the program. Membership shall be calculated under rules promulgated by the state board. The intermediate school board shall consider:

(a) Whether the cost of operating an intermediate bilingual instruction-support program is justified by the number of children at each grade level who would benefit from its establishment.

(b) Whether alternative methods of providing a bilingual instruction-support program, such as visiting teachers or part-time instruction, can be provided. (MCL §380.1153.)

§ 15.41154 Courses and subjects.

The bilingual instruction program operated by a school district shall be a full-time program of bilingual instruction in:

(a) The courses and subjects required by this act.

(b) The courses and subjects required by the board for completion of the grade level in which the child is enrolled. (MCL §380.1154.)

§ 15.41155 Preenrollment notice; contents.

(1) Prior to the placement of a child of limited English-speaking ability in a bilingual instruction program, the board of the local school district in which the child resides shall notify, by registered mail, the child's parents or legal guardian that the child is being enrolled in a bilingual instruction program. The notice shall contain a simple, non-

technical description of the purposes, method, and content of the program and shall inform the parents or guardian that they have the right to visit bilingual instruction classes in which their child is enrolled.

Language of notice. (2) The notice shall be written in English and in the native language of the child of limited English-speaking ability.

Refusal rights. (3) The notice shall inform the parents or guardian that they have the absolute right to refuse the placement or to withdraw their child from the program by giving written notice to the board of the local district in which the child resides.

Duration of enrollment; transfer, limitation. (4) A child of limited English-speaking ability residing in a school district operating or participating in a bilingual instruction program pursuant to section 1153 shall be enrolled in the bilingual instruction program for 3 years or until the child achieves a level of proficiency in English language skills sufficient to receive an equal educational opportunity in the regular school program, whichever occurs first. A child of limited English-speaking ability shall not be transferred out of a bilingual instruction program prior to the child's third year of enrollment unless the parents or guardian of the child approves the transfer in writing or unless the child successfully completes an examination which, in the determination of the state board, reflects a level of proficiency in English language skills appropriate to the child's grade level. (MCL §380.1155.)

§ 15.41156 Advisory committee; membership.

The board of a school district operating a bilingual instruction program pursuant to section 1153 shall establish an advisory committee to assist the board in evaluating and planning the bilingual instruction program. The advisory committee shall be comprised of representatives of parents of children enrolled in the program, bilingual instruction teachers and counselors, and members of the community. A majority of the members of the advisory committee shall be parents of children enrolled in the bilingual instruction program. (MCL §380.1156.)

§ 15.41157 In-service training programs; rules.

(1) The state board, in cooperation with intermediate school districts and local school districts, shall develop and administer a program of in-service training for bilingual instruction programs. The state board shall promulgate rules governing the conduct of and participation in the in-service training programs.

Rules as to endorsement of teachers; proficiency requirements. (2) The state board shall promulgate rules governing the endorsement of teachers as qualified bilingual instructors in the public schools of this state. The teacher shall meet the requirements of part 22 and shall be proficient in both the oral and written skills of the language for which the teacher is endorsed.

Evaluating English skills of children. (3) The state board shall approve an examination or testing mechanism suitable for evaluating the proficiency in English language skills of a child of limited English-speaking ability. (MCL §380.1157.)

§ 15.41158 State board powers.

The state board shall:

(a) Advise and assist school districts in complying with and implementing sections 1152 to 1158.

(b) Study, review, and evaluate textbooks and instructional materials, resources, and media for use in bilingual instruction programs.

(c) Compile data relative to the theory and practice of bilingual instruction and pedagogy.

(d) Encourage experimentation and innovation in bilingual education.

(e) Recommend curriculum development and testing mechanisms.

(f) Make an annual report relative to bilingual instruction programs to the legislature and the governor. (MCL §380.1158.)

MINNESOTA

Minnesota Laws 1977. Chapter 306.

Section 1.

126.31 Citation. Sections 126.31 to 126.42 may be cited as the bilingual education act.

Section 2.

126.32 Declaration of policy. Pursuant to the policy and law of the state to provide equal and meaningful educational opportunity to every individual, it is the purpose of sections 126.31 to 126.42 to provide for the establishment of not fewer than three pilot transitional bilingual educational programs.

Section 3.

126.33 Applicability. The requirements of sections 126.31 to 126.42 shall apply only to districts which have bilingual educational programs funded pursuant to the provisions of sections 126.31 to 126.42.

Section 4.

126.34 Definitions. Subdivision 1. For the purposes of sections 126.31 to 126.42 of this act, the words, phrases, and terms defined in this section shall have the meanings given to them.

Subd. 2. "Children of limited English speaking ability" means children whose primary language is other than English or who come from home environments where the primary language is other than English and by reason thereof, have difficulty reading, writing, speaking, and understanding ordinary classroom instruction and have difficulty in performing ordinary classwork in the English language.

Subd. 3. "Primary language" is a language other than English which is the language normally used by the child or the language which is spoken in the child's home environment.

Subd. 4. "Advisory task force" means the state advisory task force on bilingual education programs.

Subd. 5. "Parent" or "parents" includes a child's legal guardian.

Section 5.

126.35 Bilingual education programs. Subdivision 1. Instruction described. Bilingual education programs are programs of instruction enrolling children of limited English speaking ability in elementary and secondary schools in which:

(a) There is instruction given in and study of both English and the primary language of the children of limited English speaking ability, in all courses or subjects of study, to the extent necessary to allow the children to progress effectively through the educational system and to attain the basic skills so that they will be able to perform ordinary classwork successfully in English;

(b) This instruction is given with sensitivity to and appreciation for the cultural heritage of the children of limited English speaking ability;

(c) There is instruction given in the history, culture and heritage of the children of limited English speaking ability and in the history and culture of the United States;

(d) Support components are developed for staff, including inservice training and technical assistance in methods of bilingual teaching. This inservice training may include but not be limited to: (i) Development of instructional and personal skills in reading, writing and speaking; (ii) Opportunities to develop general and bilingual teaching skills; (iii) Opportunities to develop the ability to identify, create, and apply instructional techniques that will enhance the cognitive and psychomotor development of children in bilingual education programs;

(e) Orientation to the purposes and values of the bilingual program may be provided to district staff. Bilingual programs may include: research projects, including experimentation with and evaluation of methods of relating to pupils of limited English speaking ability; provision of personal and vocational counseling to pupils of limited English speaking ability; and modification of curriculum, instructional methods, and administrative procedures to meet the needs of pupils of limited English speaking ability.

Subd. 2. Additional program requirements. Bilingual education programs shall be subject to the following additional requirements:

(a) To the extent practicable, children with different non-English primary languages should not be combined in the same bilingual education program class;

(b) If graded classes are used, children enrolled in the program shall be placed, to the extent practicable, in classes with others of approximately the same age and level of educational attainment. If individuals of significantly varying ages or levels of educational attainment are placed in the same class, the bilingual program shall insure that each child is provided with instruction which is appropriate for his or her level of educational attainment and educational needs;

(c) Instruction given in two languages in a bilingual program shall be appropriate to the linguistic abilities of the children enrolled and the program shall be designed to provide intensive instruction to meet the objectives described in sections 126.31 to 126.42 of this act, and shall be sufficient to meet the educational needs of children of limited English speaking ability;

(d) Nothing in sections 126.31 to 126.42 shall be construed to authorize isolation of children of limited English speaking ability for a substantial portion of the school day.

Subd. 3. Notice of enrollment; content; rights of parents. When a pilot program is established pursuant to sections 126.31 to 126.42 of this act, every school age child of limited English speaking ability whose primary language is the non-English language which is the medium of instruction in the pilot program and who resides in a school district participating in a pilot program and not enrolled in an existing private school system shall be eligible to enroll and to participate in any program in transitional bilingual education, established under Laws 1977, chapter 306 for the classification to which he belongs by the school district, for a period of three years or until such time as he achieves a level of English language skills which will enable him to perform successfully in classes in which instruction is given only in English, whichever shall first occur. Consistent with the provisions of subdivision 2 nothing herein shall be construed to limit a school district's authority to enroll limited English speaking children, whose primary language is a non-English language other than the non-English language which is the medium of the instruction in the pilot program, in a program of bilingual education.

No later than ten days after the enrollment of any child in a program in transitional bilingual education, the school district in which the child resides shall notify by mail the parents of the child. Such notice shall:

- (a) Be in writing and be in English and in the primary language of the child's parents;
- (b) Inform the parents that their child has been enrolled in a program in transitional bilingual education;
- (c) Contain a simple, nontechnical description of the purposes, method and content of the program;
- (d) Inform the parents that they have the right to visit transitional bilingual education classes in which their child is enrolled;
- (e) Inform the parents of the time and manner in which to request and receive a conference for the purpose of explaining the nature and purpose of the program; and
- (f) Inform the parents of their right to withdraw their child from a program in transitional bilingual education and the time and manner in which to do so.

Any parent whose child is enrolled in a program in transitional bilingual education shall have the absolute right, either at the time of the original notification of enrollment or at the close of any semester thereafter, to withdraw his child from the program by providing written notice of this intent to the principal of the school in which his child is enrolled or to the superintendent of the school district in which his child resides; provided that no withdrawal shall be allowed until the parent is informed in a conference with school district officials of the nature and purpose of the program. At that conference, parents must also be informed of the nature of the program into which the child will be placed. The conference shall be held in a manner and language understood by the parents. Nothing herein shall preclude a parent from reenrolling a child of limited English speaking ability in the bilingual educational program.

Subd. 4. Enrollment of other children; shared time enrollment. To the extent it is economically feasible, a program of bilingual education may make provision for the voluntary enrollment of children whose primary language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English speaking ability for whom that particular program of bilingual education is designed. In determining eligibility to participate in a program, priority shall be given to the children whose primary language is other than English and this subdivision shall not operate or be construed to limit the obligation of school districts to enroll individuals of limited English speaking ability in a transitional bilingual program operated in accordance with subdivision 3 of this section. In no event shall the program be designed for the purpose of teaching a foreign language to English speaking children. Children of limited English speaking ability and English speaking children enrolled in an existing nonpublic system may be enrolled on a shared time basis in bilingual education programs.

Subd. 5. New students. All districts providing a bilingual education program under

sections 126.31 to 126.42 shall take all affirmative steps necessary to immediately identify children of limited English speaking ability whose primary language is the non-English language which is the medium of instruction in the pilot program and who enroll in the public schools after the implementation of the program and to assess and classify such children in accordance with the provisions of section 126.41. All such children who are identified as limited English speaking shall be eligible to be immediately enrolled in the bilingual education program, consistent with the provisions of subdivision 3 of this section.

Subd. 6. Assignment of students. No school district shall in providing these programs assign students to schools in a way which will have the effect of promoting segregation of students by race, sex, color, or national origin.

Subd. 7. Nonverbal courses and extracurricular activities. In predominantly nonverbal subjects, such as art, music, and physical education, children of limited English speaking ability shall participate fully and on an equal basis with their contemporaries in the public school classes provided for these subjects. Every school district shall ensure to children enrolled in bilingual education programs an equal and meaningful opportunity to participate fully with other children in all extracurricular activities. This subdivision shall not be construed to prohibit instruction in nonverbal subjects or extracurricular activities which relate to the cultural heritage of the children of limited English speaking ability, or which are otherwise necessary to accomplish the objectives described in sections 126.31 to 126.42.

Section 6.

126.36 Teachers; licenses; exemptions. Subdivision 1. Bilingual education licenses. The board of teaching, hereinafter the board, shall grant teaching licenses in bilingual education to persons who present satisfactory evidence that they:

- (a) Possess competence and communicative skills in English and in another language;
- (b) Possess a bachelor's degree or other academic degree approved by the board, or meet such requirements as to course of study and training as the board may prescribe.

Subd. 2. Persons holding general teaching licenses. A person holding a general teaching license who presents the board with satisfactory evidence of competence and communicative skills in a language other than English may be licensed under this section.

Subd. 3. Employment of teachers. Teachers employed in a bilingual education program established pursuant to sections 126.31 to 126.42 of this act shall not be employed to replace any presently employed teacher who otherwise would not be replaced.

Subd. 4. Teacher preparation programs. For the purpose of licensing bilingual teachers, the board may approve programs at colleges or universities designed for their training subject to the approval of the state board of education.

Subd. 5. Persons eligible for employment exemptions. Any person licensed under this section shall be eligible for employment by a school board as a teacher in a bilingual education program in which the language for which he is licensed is taught or used as a medium of instruction. A school board may prescribe only those additional qualifications for teachers licensed under this section as are approved by the board of teaching. Any school board upon request may be exempted from the licensure requirements of this section in the hiring of one or more bilingual education teachers for any school year in which compliance would, in the opinion of the commissioner of education, create a hardship in the district in the securing of the teachers. The commissioner shall notify the board of teaching of any exemptions granted pursuant to this subdivision.

Subd. 6. Persons serving under exemptions; licensure; tenure. A bilingual education teacher serving under an exemption as provided in subdivision 5 shall be granted a license as soon as that teacher achieves the qualifications for it. Not more than one year of service by a bilingual education teacher under an exemption shall be credited to the teacher for the purposes of Minnesota Statutes, Section 125.12, and not more than two years shall be credited to the teacher for the purpose of Minnesota Statutes, Section 125.17; and the one or two years shall be deemed to precede immediately and be consecutive with the year in which a teacher becomes licensed.

Subd. 7. Affirmative efforts in hiring. In hiring for all positions in bilingual education programs school districts shall give preference to and make affirmative efforts to seek, recruit, and employ persons who are (a) native speakers of the language which is the medium of instruction in the bilingual education program, and (b) who share the culture of the limited English speaking children who are enrolled in the program. The district shall provide procedures for the involvement of the parent advisory committees in designing the procedures for the recruitment, screening and selection of applicants, provided that nothing herein shall be construed to limit the school board's authority to hire and discharge personnel.

Section 7.

126.37 Teachers' aides; community coordinators. In addition to employing bilingual teachers, each district providing bilingual education programs pursuant to sections 126.31 to 126.42 of this act may employ teachers' aides. Teachers' aides shall not be employed for the purpose of supplanting bilingual teachers.

Section 8.

126.38 Parent and community participation. Subdivision 1. School boards shall provide for the maximum involvement of parents of children enrolled in bilingual education programs pursuant to sections 126.31 to 126.42 of this act. Accordingly, before implementing a program, the school district shall establish a parent advisory committee for that program. This committee shall afford parents the necessary information and opportunity to express their views concerning all aspects of the bilingual education program and the educational needs of the children of limited English speaking ability residing within the district's attendance boundaries. The district shall ensure that the program is planned, operated, and evaluated with the effective involvement of and in consultation with parents of children enrolled or eligible to be served by the program.

Subd. 2. The committees shall be composed solely of parents of children enrolled or eligible to be enrolled in bilingual programs; secondary students enrolled or eligible to be served; bilingual education teachers, aides, counselors, and other bilingual education program personnel; and representatives from community groups; provided, however, that a majority of each committee shall be parents of children enrolled or eligible to be enrolled in the corresponding program, and the number of parents of limited English speaking children and parents of children whose primary language is English shall reflect approximately the proportion of children of those groups enrolled in the program.

Subd. 3. School principals and other administrators or teachers within the district shall be encouraged to participate and cooperate with the parent advisory committee.

Subd. 4. All notices and other information sent to the parent advisory committees shall be in English and in the primary language of the parent members.

Subd. 5. Nothing in this section shall be construed as prohibiting the school board from establishing procedures whereby parents whose children are enrolled or eligible to be enrolled in the bilingual education program select, consistent with the provisions of this section, the members of the parent advisory committee. Nothing in this section shall be construed as prohibiting school boards from establishing a parent advisory committee prior to the submission of a proposal under section 126.41 for a bilingual education program.

Subd. 6. School districts which have already established a parent advisory committee pursuant to section 703(a)(4)(e) of Title VII of the Elementary and Secondary Education Act of 1965 may utilize that committee for the purpose of complying with the provisions of this section.

Section 9.

126.39 State board of education duties. Subdivision 1. Needs assessment. The state board of education shall conduct a statewide assessment of the need for bilingual education programs, which shall include information on:

(a) Numbers, ages, locations by school district, and primary language, race, national origin, and level of family income of children of limited English speaking ability;

(b) Concentration of children of limited English speaking ability in attendance areas within school districts by primary language, race, national origin, and level of family income;

(c) Placement rates of children of limited English speaking ability in classes for handicapped pupils, in comparison with schoolwide and districtwide placement rates;

(d) Achievement test scores, mobility rates and dropout rates of children of limited English speaking ability in comparison with average achievement test scores, mobility rates and dropout rates;

(e) Any other data deemed necessary to assessment of the need for bilingual education in the state. The procedures for gathering the information shall be designed to comply with provisions of state and federal law relating to privacy and student records.

Any needs assessment previously conducted by a school district which is determined to be current and which meets the requirements of this subdivision may be used as the basis for a program proposal and funding under section 126.41 prior to the completion of the statewide assessment and may be used by the state board as a part of its statewide assessment.

Subd. 2. Resource evaluation. The state board shall study, review, and evaluate all available resources and programs which, in whole or in part, are or could be directed toward meeting the educational needs of children of limited English speaking ability, including information on:

(a) Numbers, location, qualifications, and primary language and national origin of teachers, aides, administrators, counselors, and potential post secondary education graduates from non-English speaking backgrounds who have an interest in working in bilingual programs;

(b) Programs within the state designed for the preparation of bilingual education teachers;

(c) The effectiveness of existing programs for children of limited English speaking ability within the state;

(d) Successful and innovative preservice and inservice programs for staffs of bilingual education programs; and

(e) Tests, criteria, identification instruments and procedures for identifying, testing, assessing and classifying children of limited English speaking ability.

Subd. 3. Program models. The state board shall gather information about the theory and practice of bilingual education and design program models appropriate for meeting the need for bilingual education in conjunction with the basic educational program in the state.

Subd. 4. Evaluation of programs. The state board shall provide for comprehensive evaluation of pilot programs funded under sections 126.31 to 126.42. The state board may also provide for the comprehensive evaluation of existing educational programs offered by non-public, community, or alternative schools, including assessment of pupil achievement, processes and results of establishing quality programs, and attitudes of people involved in and affected by programs, provided that the nonpublic, community, or alternative school consents to the evaluation of its existing program.

Subd. 5. Community involvement. The state board shall provide for the maximum involvement of the state advisory task force on bilingual education, parents of children of limited English speaking ability, secondary students eligible to be served, bilingual education teachers, teachers' aides, representatives of community groups, and persons knowledgeable in the field of bilingual education, in the formulation of policy and procedures relating to the administration of sections 126.31 to 126.42.

Subd. 6. Consultation. The state board may consult with and make recommendations to other public departments and agencies in connection with the administration of sections 1 to 12 of this act.

Subd. 7. Teacher licensure. The state board shall provide to the board of teaching a report on its research and experience in bilingual education insofar as such research may have a bearing on the establishment of teacher licensure requirements by the board of teaching. The board of teaching shall submit its proposals to the state board for approval pursuant to the procedures in Minnesota Statutes, Section 125.185, Subdivision 4.

Subd. 8. Technical assistance. The state board of education shall provide technical assistance to school districts and post secondary institutions for preservice and inservice training for bilingual education teachers and teachers' aides, teaching methods, curriculum

development, testing and testing mechanisms, and the development of materials for bilingual programs.

Subd. 9. Application for funds. The state board may apply for grants or funds which are, or may become, available under federal programs for bilingual education, including funds for administration, demonstration projects, training, technical assistance, planning and evaluation.

Subd. 10. Report. The state board shall make a report to the legislature, the governor and the public on, or before September 1, 1979. This report shall include the results of the needs assessment, including an evaluation of the pilot programs, the number of children served in programs for each language group; the cost of the program per pupil for each pilot program language group, and program type; the number of children in each school district, language group and program type who, as a result of the bilingual education program, improved their English language ability to such an extent that the program is no longer necessary for those children; and recommendations for legislation including any need for expansion and accompanying plans and cost estimates in the areas of bilingual education.

Subd. 11. Rules and regulations. The state board, upon the receipt of recommendations by the advisory task force, may promulgate rules providing for standards and procedures appropriate for the implementation of and within the limitations of sections 126.31 to 126.42 of this act.

Section 10.

126.40 Advisory task force on bilingual education programs. Subdivision 1. Establishment. The state board of education shall appoint an advisory task force on bilingual education programs. There shall be no more than ten members on the task force. Members shall include: representatives of community groups, parents of children eligible to be served by the programs, bilingual administrators and teachers, persons experienced in the training of teachers for bilingual education programs, persons involved in programs for children of limited English speaking ability in nonpublic, community, or alternative schools, and persons knowledgeable in the field of bilingual education. Members shall be appointed so as to be representative of significant segments of the population of persons of limited English speaking ability.

Subd. 2. Duties. The advisory task force on bilingual education programs shall be charged with the following duties:

(a) To make recommendations to the state board concerning approval, modification, or disapproval of proposals for programs and the amounts of grants to approved programs; and

(b) To advise the state board in the administration of its duties under sections 126.31 to 126.42.

Subd. 3. The advisory task force shall expire and the terms, compensation, and removal of members shall be as provided for in Minnesota Statutes, Section 15.059, Subdivision 6.

Section 11.

126.41 Pilot programs. Subdivision 1. Grants, procedures. For fiscal years 1978 and 1979, as part of the needs assessment effort, the state board of education shall make grants to no fewer than three transitional bilingual education programs. At least one pilot bilingual program shall be in a rural area. The board of a local district or a group of boards may submit a proposal for a grant for a transitional bilingual education program. The state board shall prescribe the form and manner of application for grants and no grants shall be made for proposals not complying with the requirements of sections 126.31 to 126.42. Every program proposal shall be submitted to the state board not less than six months before the planned commencement of the program; provided, however, that this six month requirement shall not apply to school districts with an existing bilingual education program established and approved pursuant to section 701 et seq., of Title VII of the Elementary and Secondary Education Act of 1965. The state board shall submit all proposals to the state advisory task force on bilingual education programs for its recommendations concerning approval, modification, or disapproval and the amounts of grants to approved programs.

Subd. 2. Plans. Each school district submitting a proposal under subdivision 1 shall develop and submit with the proposal a plan which shall:

- (a) Identify the measures to be used to meet the requirements of sections 126.31 to 126.42;
- (b) Identify the activities, methods and programs to meet the identified educational needs of the children to be enrolled in the program;
- (c) Describe how district goals and objectives as well as the objectives of sections 126.31 to 126.42 are to be achieved;
- (d) Demonstrate that required and elective courses as structured do not have a discriminatory effect within the meaning of section 126.34, subdivision 6;
- (e) Describe how each school program will be organized, staffed, coordinated, and monitored; and
- (f) Project expenditures for programs under sections 1 to 12 of this act.

Subd. 3. Additional requirements. Each school district receiving a grant under this section shall each year conduct a count of children of limited English speaking ability whose primary language is the non-English language which is the medium of instruction in the bilingual education program funded under this section in the public schools of the district; assess the English and primary language proficiencies of such children; test for achievement; identify the extent of other educational needs of the children to be enrolled in the bilingual education program; and classify the limited English speaking children by grade, level of educational attainment, age, achievement, and English and primary language proficiencies. This count may be part of the school census required pursuant to section 120.095. Nothing herein shall be construed to limit a school district's authority to so count, assess, test, identify and classify limited English speaking children, whose primary language is a non-English language other than the non-English language which is the medium of instruction in a program funded under this section.

Subd. 4. Nondiscrimination; testing. In accordance with recognized professional standards, all testing and evaluation materials and procedures utilized for the identification, testing, assessment and classification of children of limited English speaking ability shall be selected and administered so as not to be racially or culturally discriminatory and shall be valid for the purpose of identifying, testing, assessing, and classifying children of limited English speaking ability.

Subd. 5. Records. Participating school districts shall keep records and afford access to them as the commissioner finds necessary to ensure that bilingual education programs are implemented in conformity with sections 126.31 to 126.42. Each school district shall keep an accurate, detailed, and separate account of all money received and paid out by it for bilingual education programs funded under this section.

Subd. 6. Funds from other sources. A school district providing bilingual education programs shall be eligible to receive funds for these programs from other government agencies and from private sources when the funds are available.

Subd. 7. Nothing in sections 126.31 to 126.42 shall be construed as prohibiting a district from implementing a bilingual education program which is not in compliance with sections 126.31 to 126.42 if the proposal and plan for that program is not funded pursuant to this section.

Section 12.

126.42 Other statutes. Nothing in the provisions of sections 126.31 to 126.42 shall be construed to violate the provisions of Minnesota Statutes, Section 127.08 or Chapter 363. Programs and activities pursuant to sections 126.31 to 126.42 shall be deemed to be positive action programs to combat discrimination.

Section 13.

Minnesota Statutes 1976, Section 120.095, is amended by adding a subdivision to read:

Subd. 6. The school census shall include an enumeration of children of limited English speaking ability residing within the district by primary language, race and national origin. In making this census the school board shall seek the assistance and cooperation of

agencies, organizations or community groups, public or private, which might have information about students of limited English speaking ability residing in the school district. As used in this subdivision, the terms "children of limited English speaking ability" and "primary language" shall have the meanings ascribed to them in Laws 1977, Chapter 306, Section 4.

Section 14.

Minnesota Statutes 1976, Section 120.10, Subdivision 2, is amended to read:

Subd. 2. School. A school, to satisfy the requirements of compulsory attendance, must be one in which all the common branches are taught in the English language, from textbooks written in the English language, and taught by teachers whose qualifications are essentially equivalent to the minimum standards for public school teachers of the same grades or subjects; provided that in a program of instruction for children of limited English speaking ability, instruction and textbooks may be in the primary language of the children of limited English speaking ability enrolled therein. Any other language may be taught as provided in section 126.07. As used in this subdivision, the terms "children of limited English speaking ability" and "primary language" shall have the meanings ascribed to them in Laws 1977, Chapter 306, Section 4.

Section 15.

Minnesota Statutes 1976, Section 126.07, is amended to read:

126.07 Instruction, use of English language

The books used and the instruction given in public schools shall be in the English language, but any other language may be used by teachers in explaining to pupils who understand such language the meaning of English words; provided that in the case of a program for children of limited English speaking ability, instructions and books may be in the primary language of the children of limited English speaking ability. As used in this section, the terms "children of limited English speaking ability" and "primary language" shall have the meanings ascribed to them in Laws 1977, Chapter 306, Section 4. In secondary and elementary schools other languages may be taught, when made a part of a regular or optional course of study.

Section 16.

Appropriation. The sum of \$550,000 is appropriated from the general fund to the state board of education for the purposes of this act to be available until June 30, 1979. Of this amount, \$40,000 shall be available for the year ending June 30, 1978 for the employment of two professional employees and one clerical employee beyond the existing complement of the department of education; \$40,000 shall be available for the year ending June 30, 1979 for the employment of two professional employees and one clerical employee beyond the existing complement of the department; \$70,000 shall be available until June 30, 1979 for the payment of other necessary expenses and contracted services incurred in connection with the administration of this act. The sum of \$400,000 shall be available until June 30, 1979 to be expended for grants to pilot bilingual education programs pursuant to sections 1 to 12 of this act.

Approved May 27, 1977.

MISSISSIPPI

No statutory or constitutional provisions.

MISSOURI

No statutory or constitutional provisions.

MONTANA

No statutory or constitutional provisions.

Note: Sections of the Revised Code of Montana, Title 75, which specified English as the language of instruction have been repealed or amended to remove such references.

NEBRASKA

Nebraska Constitution. Article I, Section 27

The English language is hereby declared to be the official language of this state, and all official proceedings, records and publications shall be in such language and the common school branches shall be taught in said language in public, private, denominational and parochial schools.

NEVADA

No statutory or constitutional provisions.

Note: The Nevada Department of Education has issued a 114-page book of guidelines Educating Nevada's Limited-English Speaking Students.

NEW HAMPSHIRE

New Hampshire Revised Statutes Annotated. Title XV - Education.

186:11 - XXXIII. Discrimination.

Insure that there shall be no unlawful discrimination in any public school against any person on the basis of sex, race, creed, color, marital status or national origin in education programs, and that there shall be no denial to any person on the basis of sex, race, creed, color, marital status or national origin of the benefits of educational programs or activities.

189:19 - English Required.

In the instruction of children in all schools, including private schools, in reading, writing, spelling, arithmetic, grammar, geography, physiology, history, civil government, music, and drawing, the English language shall be used exclusively, both for the purposes of instruction therein and for purposes of general administration. Educational programs in the field of bilingual education shall be permitted under the provisions of this section with the approval of the state board of education and the local school district.

Note: Standards regarding the bilingual teaching endorsement can be found in the Standards for State Approval of Teacher Education, NASDTEC, 1973 Edition (Revised).

NEW JERSEY

Chapter 197, Laws of 1974

1. The Legislature finds that there are large numbers of children in the State who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The Legislature believes that a program of bilingual education can meet the needs of those children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of the State to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English-

speaking ability, it is the purpose of this act to provide for the establishment of bilingual programs in the public schools.

2. As used in this act, the following words and phrases shall have the following meaning:

"Children of limited English-speaking ability" means those children whose primary language is other than English and who have difficulty performing ordinary classwork in English.

"Programs in bilingual education" means a full-time program of instruction (1) in all those courses or subjects which a child is required by law, rule or regulation to receive given in the native language of the children of limited English-speaking ability enrolled in the program and also in English, (2) in the aural comprehension, speaking, reading, and writing of the native language of the children of limited English-speaking ability enrolled in the program and in the aural comprehension, speaking, reading and writing of English, and (3) in the history and culture of the country, territory or geographic area which is the native land of the parents of children of limited English-speaking ability enrolled in the program and in the history and culture of the United States.

3. Each school district shall identify and ascertain, according to rules prescribed by the Commissioner of Education with the approval of the State board, the children attending the schools of the district who are of limited English-speaking ability and, also, those not in attendance but resident within the district, and shall classify them according to the language of which such children possess a primary speaking ability.

4. When, at the beginning of any school year, there are within the schools of the district 20 or more pupils of limited English-speaking ability in any one language classification, the board of education shall establish, for each such classification, a program in bilingual education for all the pupils therein; provided, however, that a board of education may establish a program in bilingual education for any language classification with less than 20 children therein.

5. Every pupil participating in a program pursuant to this act shall be entitled to continue such participation for a period of 3 years.

6. In those courses or subjects in which verbalization is not essential to an understanding of the subject matter, including but not limited to art, music, and physical education, pupils of limited English-speaking ability shall participate fully with English-speaking pupils in the regular classes provided for such subjects. Each board shall insure to each pupil enrolled in a program in bilingual education a practical and meaningful opportunity to participate fully in all programs and activities available in the school district. Programs in bilingual education shall be located in the regular public schools of the district rather than in separate facilities. Bilingual education programs may include children of English-speaking ability.

7. A school district may join with any other school district or districts, according to rules prescribed by Commissioner of Education with the approval of the State board, to provide programs pursuant to this act.

8. Each school district shall notify by mail the parents of the pupils of limited English-speaking ability of the fact that their child has been enrolled in a program of bilingual education. Such notice shall be in writing and in the language of which the child of the parents so notified possesses a primary speaking ability, and in English.

The board shall provide for the maximum practicable involvement of parents of children of limited English-speaking ability in the development and review of program objectives and dissemination of information to and from the local school districts and communities served by the bilingual education program within existing State law.

9. The Commissioner of Education and the Chancellor of Higher Education shall, with the approval of their respective boards promulgate rules and regulations, establish procedures, employ personnel, and take all other necessary steps to insure the implementation of the provisions of this act.

10. The State Board of Education and the State Board of Higher Education shall jointly establish a State Advisory Committee on Bilingual Education to assist the Department of Education and the Department of Higher Education in the formulation of policies and procedures relating to this act. The State Advisory Committee on Bilingual Education shall include representatives of the language communities served, institutions of higher education, local school boards, school administrators, teachers and laymen knowledgeable in the field of bilingual education.

11. The Board of Higher Education with the advice of the State Advisory Committee on Bilingual Education shall provide financial support to institutions of higher education for career development programs and the training of professionals serving bilingual populations with emphasis on effective utilization of existing facilities.

12. The State board and the State Board of Higher Education shall develop resources, programs, curriculum and instructional materials and undertake such other activities as will enable boards of education to provide programs pursuant to this act; the boards shall, where appropriate, jointly or cooperatively undertake such activities.

13. This act shall take effect immediately except that section 4 shall not take effect until July 1, 1975.

NEW MEXICO

New Mexico Statutes. Chapter 77 - Public School Code.

Article 23

77-23-1. SHORT TITLE.

This act may be cited as the "Bilingual Multi-Cultural Education Act".

77-23-2. DEFINITIONS.

As used in the Bilingual Multi-Cultural Education Act:

- A. "program" means a program of education by which students learn through two languages to understand and participate in the cultures of their environment;
- B. "chief" means chief of public school finance;
- C. "culturally and linguistically different" are those persons who are of a different cultural background than the majority culture of the state and whose native tongue is of a language other than the language of the majority culture within the state;
- D. "department" means the state department of education;
- E. "district" means a local school district; and
- F. "school board" means a local school board.

77-23-3. PURPOSE.

- A. The purpose of the Bilingual Multi-Cultural Education Act is to insure equal education opportunities for students in New Mexico.
- B. Cognitive and affective development of the students in New Mexico is encouraged by:
 - (1) utilizing the cultural and linguistic backgrounds of the students in the curriculum;
 - (2) providing students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner; and
 - (3) teaching students to appreciate the value and beauty of different languages and cultures.

77-23-4. STATE BOARD AND DEPARTMENT--POWERS--DUTIES.

- A. The state board shall issue guidelines for the development and implementation of programs.
- B. The department shall administer and enforce the provisions of the Bilingual Multi-Cultural Education Act.
- C. The department shall assist school boards in developing and evaluating programs.
- D. In the development, implementation and administration of this program, the

state board and the department shall give preference to New Mexico residents when hiring personnel.

77-23-5. PROGRAM PLAN AND EVALUATION.

A. The school board may prepare and submit to the department, the state superintendent of public instruction or his representative and the chief a program plan in accordance with guidelines issued by the state board.

B. At regular intervals, the school board, the department, and a parent advisory committee from the district shall review the goals and priorities of the plan and make appropriate recommendations to the state board.

C. Programs shall be located in the regular public schools of the district. Involvement of students in any programs shall not have the effect of segregating students by ethnic group, color or national origin.

77-23-6. BILINGUAL INSTRUCTION PROGRAMS--ELIGIBILITY FOR STATE FINANCIAL SUPPORT.

A. To be eligible for state financial support, each program must:

(1) provide for the educational needs of linguistically and culturally different students, including native American children, and other students who may wish to participate, in grades K through six, with priority to be given to programs in grades K through three, in any public school or between a combination of public schools in a district;

(2) fund programs for culturally and linguistically different students in the state in grades K through three for which there is an identifiable need to improve the language capabilities of these students before funding programs at higher grade levels;

(3) use two languages as mediums of instruction for any part or all of the curriculum of the grade level or levels within the program;

(4) use teachers who have specialized in elementary education and who have received special training in bilingual education conducted through the use of two languages; and

(5) emphasize the history and cultures associated with the students' mother tongue.

B. Each program must meet each requirement of Subsection A of this section and be approved by the department, the state superintendent of public instruction or his representative and the chief to be eligible for state financial support.

77-23-7. REPEALED.

NEW YORK

Consolidated Laws of New York Annotated. Education Law.

Article 65, Section 3204.

§ 3204. Instruction required

1. Place of instruction. A minor required to attend upon instruction by the provisions of part one of this article may attend at a public school or elsewhere. The requirements of this section shall apply to such a minor, irrespective of the place of instruction.

2. Quality and language of instruction; text-books. Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and text-books used shall be written in English, except that for a period of three years, which period may be extended by the commissioner with respect to individual pupils, upon application therefor by the appropriate school authorities, to a period not in excess of six years, from the date of enrollment in school, pupils who, by reason of foreign birth, ancestry or otherwise, experience difficulty in reading and understanding English, may, in the discretion of the board of education, board of trustees or trustee, be instructed in all subjects in their native language and in English. Instructions given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.

2-a. Bilingual instruction in schools. 1. The governing board of any school district is hereby empowered to determine the circumstances and necessity wherein instruction shall be given bilingually. The said governing board shall design the necessary procedures and acquire the necessary training materials and equipment to meet the special educational needs of children of limited English speaking ability through programs designed to accomplish the following:

- a. bilingual education;
- b. to impart to students a knowledge of the history and culture associated with their languages;
- c. to establish closer cooperation between the school and the home;
- d. to provide early childhood educational programs related to the purposes of this section and designed to improve the potential for profitable learning activities by children;
- e. to provide adult education programs related to the purposes of this section, particularly for parents of children participating in bilingual programs;
- f. to provide programs designed for dropouts or potential dropouts having need of bilingual programs;
- g. to provide programs to be conducted by accredited trade, vocational or technical schools; and
- h. to provide other activities deemed desirable to further the purposes of this section.

2. Any duly authorized local educational agency or agencies is hereby empowered to make application for any grant or grants in furtherance of this section under Title VII Public Law 90-247 as enacted by the United States Congress January second, nineteen hundred sixty-eight.

Bilingual Programs; Appropriation; Regulations.

Sections 1 and 2 of L.1973, c. 720, eff. July 1, 1973, provided:

"Section 1. The sum of one million five hundred thousand dollars (\$1,500,000), or so much thereof as may be necessary, is hereby appropriated to the education department out of any moneys in the state treasury in the general fund to the credit of the local assistance fund not otherwise appropriated for its expenses, including personal service, maintenance and operation for programs in transitional bilingual education in recognition of the educational needs of children of limited English-speaking ability.

"§ 2. The commissioner of education shall promulgate rules and regulations for the development, implementation, operation and financing of such programs subject to approval of the director of the budget."

NORTH CAROLINA

General Statutes of North Carolina. Chapter 115.

Subchapter X, Article 24.

County and city boards of education shall require that all subjects in the course of study, except foreign languages, be taught in the English language, and any teacher or principal who shall refuse to conduct his recitations in the English language may be dismissed.

NORTH DAKOTA

No statutory or constitutional provisions.

OHIO

Ohio Revised Code.

Section 3319.22

Teachers' certificates of state-wide validity shall be issued pursuant to sections 3319.22 to 3319.31 of the Revised Code, or in accordance with standards and rules

authorized by law. The grades of certificates shall be designated as "temporary certificates," "one year vocational certificates," "provisional certificates," "professional certificates," and "permanent certificates." Each of such grades of certificates may be issued in each or any of the following types:

...(o) bilingual multicultural, valid for teaching in bilingual multicultural programs in any subject or grade for which the certificate holder is otherwise certificated.

OKLAHOMA

Oklahoma Statutes Annotated. Title 70 - Schools.

Section 11-102.

"Instruction given in the several branches of learning in the public schools shall be conducted in the English language except as is necessary for the teaching of foreign languages."

Oklahoma Constitution, Article 1, §5

Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and free from sectarian control; and said schools shall always be conducted in English: Provided, that nothing herein shall preclude the teaching of other languages in said public schools:...

Note: A 1975 ruling by the Attorney General of Oklahoma (Opinion No. 75-231) says:

It is, therefore, the opinion of the Attorney General that your questions be answered as follows: The requirement of 70 O.S. 1971, §11-102, and Article 1, §5, Oklahoma Constitution, that instruction in the public schools be conducted in the English language except as is necessary for the teaching of other languages, is subject to the duty of federally assisted school systems to provide programs to meet the linguistic needs of pupils entering school unable to speak and understand the English language; Section 11-102 and Article 1, §5, Oklahoma Constitution, do not prohibit the conduct of classes in Native American languages [the languages in question for the ruling--ed.] where such languages are taught as subjects.

OREGON

Oregon Revised Statutes. Chapter 343.

Senate Bill 841 - 1979 Session

SECTION 1. Sections 2 to 17 of this Act are added to and made a part of ORS chapter 343.

SECTION 2. The purpose of sections 2 to 17 of this 1979 Act is to stimulate and assist school districts to improve the instruction or curriculum for linguistically different children, who are enrolled in their schools or residing within the respective districts, through bilingual education.

SECTION 3. As used in sections 2 to 17 of this 1979 Act:

- (1) "Advisory council" means the State Advisory Council for Linguistically Different Children.
- (2) "Bilingual education" means instruction designed for non-English or limited English proficient students, using the native language of the students as a basis for achieving proficiency in the English language.
- (3) "Linguistically different children" means those whose native language is other than English.

SECTION 4. Academic development and proficiency in the English language by the children of the state are encouraged by the use of bilingual education. In order to provide

bilingual education for linguistically different children, the district school board of any school district in which there are children under 18 years of age who require bilingual education:

(1) May submit an annual projected activities and cost statement to the Superintendent of Public Instruction for a program of bilingual education for the district's linguistically different children. The proposed district program shall include provisions for providing bilingual education and related services and be designed to meet the unique needs of all resident linguistically different children.

(2) When the board considers a contract to be economically feasible and in the interests of the learning opportunities of eligible children, may contract for bilingual education for such children with another school district or an education service district if:

- (a) The district school boards jointly agree to provide bilingual education.
- (b) The school districts within the education service district approve the contract by a resolution adopted in the manner provided in subsection (2) of ORS 334.175.
- (c) Any school district within the education service district contracts with the education service district in the manner provided in subsection (3) of ORS 334.175 for such bilingual education.

SECTION 5. The Superintendent of Public Instruction may annually establish a date after which no further plans may be submitted for reimbursement under sections 2 to 17 of this 1979 Act. The Superintendent of Public Instruction shall approve plans for reimbursement. In determining which plans will be approved, the Superintendent of Public Instruction shall consider:

- (1) The adequacy and type of program proposed.
- (2) The number of children who will benefit by the proposed program.
- (3) The availability of personnel and facilities in the school district or districts.
- (4) The need for such a program in the district or districts.
- (5) Whether the plan meets the requirements of sections 2 to 17 of this 1979 Act.
- (6) Any other factors which will help to accomplish the purposes of sections 2 to 17 of this 1979 Act.

SECTION 6. A bilingual education program shall not be approved unless the applicant school district accepts responsibility for:

- (1) Meeting the educational needs of linguistically different students and other students who may wish to participate, in grades kindergarten through eight, in any public school or among a combination of public schools in a district.
- (2) Providing for the use of two languages, one being English, as mediums of instruction within the program;
- (3) Providing teachers who demonstrate competency in bilingual education as evidenced by the standards developed by the State Board of Education.
- (4) Instruction shall be given with appreciation for the cultural heritage of children of limited English proficiency and of other children in American society.

SECTION 7. Bilingual education programs shall be located in the regular public schools of the district. Involvement of students in any bilingual education program shall not have the effect of segregating students on the basis of linguistic difference, ethnic group, color or national origin.

SECTION 8. All linguistically different children needing bilingual education in grades kindergarten through eight must be served before bilingual education programs for children in higher grade levels are eligible to be reimbursed by the state.

SECTION 9. The Superintendent of Public Instruction shall assist school districts in the development, monitoring and evaluation of bilingual education programs.

SECTION 10. The Superintendent of Public Instruction, in cooperation with the State Board of Higher Education, may establish in the state institutions of higher learning approved by the Teacher Standards and Practices Commission for the preparation of teachers, centers which will assist in the preparation of bilingual education teachers and which will provide consultant, evaluative and instructional services in education to school districts and to linguistically different children. Funds appropriated for education of linguistically different children may be used to help defray costs to such centers.

SECTION 11. Reimbursement to all districts for operation and administration of district bilingual education programs approved by the Superintendent of Public Instruction under sections 2 to 17 of this 1979 Act shall be made subject to the following provisions:

(1) A district shall submit by June 30 to the Superintendent of Public Instruction an estimate of the costs of providing bilingual education for the following school year.

(2) A district which provides bilingual education shall file with the Superintendent of Public Instruction, on or before October 1 following the close of the school year for which reimbursement is claimed, a claim and such other information as may be required by the Superintendent of Public Instruction for reimbursement for which it is eligible for the cost of operation and administration of bilingual education.

(3) If the Superintendent of Public Instruction approves the claim of a district for reimbursement, he shall reimburse the district in addition to the Basic School Support Fund 100 percent of the approved cost of providing bilingual education for the school year for which reimbursement is claimed, or its equal prorated share of funds available. If an education service district provides the bilingual education programs, the superintendent shall reimburse the education service district 100 percent of the approved cost of providing special education for the school year for which reimbursement is claimed, or its equal prorated share of funds available.

(4) Beginning with the 1979-1980 school year, the Superintendent of Public Instruction may distribute the funds provided for the education of linguistically different children as provided in this 1979 Act on an advance payment system which would distribute these funds in the year in which the expenses occurred. Computation of the amounts due each district operating a bilingual education program shall be made by the Superintendent of Public Instruction pursuant to rules of the State Board of Education. The rules shall establish a method of computation and payment.

SECTION 12. In the event that the moneys specifically appropriated for the program under sections 2 to 17 of this 1979 Act are insufficient to pay the full reimbursable amount of all approved claims in any fiscal year, the reimbursement to each district shall be prorated according to the ratio that the total amount of funds available bears to the total amount that would be required to pay in full all approved claims for the fiscal year.

SECTION 13. The funds specifically appropriated for the program under sections 2 to 17 of this 1979 Act shall be used for reimbursement of approved claims from school districts, and for providing summer workshops, institutes, in service programs, program evaluations and consultant services to school districts.

SECTION 14. Where federal funds are made available on a matching basis for bilingual education, state funds available for bilingual education may be used to match the federal funds.

SECTION 15. (1) The Superintendent of Public Instruction shall appoint a State Advisory Council for Linguistically Different Children which shall consist of 12 members and shall include:

(a) Seven educators with knowledge and experience in the field of bilingual education; and

(b) Five parents of linguistically different children.

(2) Members of the advisory council shall be representative of the general population of the state and representative of the five largest language groups in the state.

(3) The Superintendent of Public Instruction shall appoint the chairperson and vice-chairperson of the advisory council.

(4) The advisory council shall establish rules for its operation.

(5) Members of the advisory council shall be entitled to compensation and expenses as provided in ORS 292.495.

SECTION 16. The advisory council shall make recommendations to the Superintendent of Public Instruction concerning guidelines for the development and implementation of bilingual education programs and any other subject relating to linguistically different children.

SECTION 17. (1) Every school district, combination of districts or education service district that operates or plans to operate a program of bilingual education under sections 2 to 17 of this 1979 Act shall appoint one or more parent advisory committees consisting

primarily of parents of children being served in the program.

(2) Each advisory committee shall select its own chairperson and vice-chairperson and fix the duties of its officers.

(3) Each parent advisory committee and district school board shall review all aspects of the bilingual education program and report their findings to the Superintendent of Public Instruction. Parent advisory committees shall also make recommendations to the Superintendent of Public Instruction as to appointments to the State Advisory Council for Linguistically Different Children.

SECTION 18. There is appropriated to the Department of Education, for the biennium beginning July 7, 1979, out of the General Fund, the sum of \$3 million for the purpose of carrying out the provisions of this Act.

SECTION 19. This appropriation is in addition to and not in lieu of any other appropriation and is not intended as a substitute for state basic school support or any other state funding of school districts or school programs.

SECTION 20. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

PENNSYLVANIA

Pennsylvania Statutes Annotated. Title 24 - Education.

Section 1511. Subject of Instruction; Flag Code.

In every elementary public and private school, established and maintained in this Commonwealth, the following subjects shall be taught in the English language and from English texts: English, including spelling, reading, and writing; arithmetic; geography; the history of the United States and Pennsylvania; civics, including loyalty to the State and National Government; safety education; and the humane treatment of birds and animals; health, including physical education, and physiology; music; and art. Other subjects shall be taught in the public elementary schools and also in the public high schools as may be prescribed by the standards of the State Board of Education. All such subjects, except foreign languages, shall be taught in the English language and from English texts: Provided, however, That, at the discretion of the Superintendent of Public Instruction, the teaching of subjects in a language other than English may be permitted as part of a sequence in foreign language study or as part of a bilingual education program if the teaching personnel are properly certified in the subject fields....

Note: Regulations of the State Board of Education, Chapter 5

§5.24. Bilingual/bicultural education.

(a) Each child whose dominant language is not English shall be provided with either a bilingual/bicultural program or an English as a Second Language (ESL) program in accordance with the standards, guidelines and definitions established by the Secretary.

RHODE ISLAND

General Laws of Rhode Island. Title 16 - Education.

Chapter 54.

16-54-1. Short Title.

This chapter shall be known and may be cited as the State Transitional Bilingual Education Act.

16-54-2. Declaration of Policy.

The Legislature finds that there are large numbers of children in the State who come from environments where the primary language is other than English, and that public school

classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The Legislature believes that transitional bilingual education programs can meet the needs of these children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of the State to ensure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English speaking ability, it is the purpose of this chapter to provide for the establishment of transitional bilingual education programs in the public schools and to provide for reimbursement to school districts of the extra costs of such programs.

16-54-3. Definitions As Used in this Chapter.

- (1) "department" means the State Department of Education;
- (2) "district" means school district;
- (3) "school board" means the board of education of a local school district;
- (4) "children of limited English-speaking ability" means children whose native tongue is a language other than English and who have difficulty performing ordinary classwork in English; provided, that where a school district has made a judgment that a child is not of limited English-speaking ability, but his parent (or legal guardian) reasonably disagrees, the parent's judgment shall be conclusive.

16-54-4. Census; Classification; Mandatory Establishment of Programs; Discretionary Establishment of Programs.

(a) The school board of every school district shall ascertain annually in a census, under regulations prescribed by the department, the number of school age children of limited English-speaking ability resident within the district. In making such census the school board shall seek the assistance and cooperation of any agencies, organizations or community groups, public or private, which might have information about children of limited English-speaking ability residing in the school district. The department shall cooperate with and assist school districts in taking the census.

(b) The school board of each district shall classify the children of limited English-speaking ability within the district according to the language in which they possess a primary speaking ability. Whenever there are within a school district 20 or more children of limited English-speaking ability in any such classification, the school board of said district shall establish, for each such classification, a transitional bilingual education program (hereinafter, bilingual program) for all the children therein. A school board may establish a bilingual program with respect to any classification containing less than 20 children. In mandatory programs, children speaking different non-English languages shall not be combined in the same program.

16-54-5. Enrollment of Children of Limited English-Speaking Ability; Enrollment of Other Children; Notification; Parent's Right of Withdrawal.

(a) Every school age child of limited English-speaking ability residing within a school district required to provide a bilingual program for his classification shall be enrolled in such a program. An examination in listening comprehension, speaking, reading, and writing of English, as prescribed by the department, shall be administered annually to all children of limited English-speaking ability enrolled in a bilingual program. No school district shall transfer a child of limited English-speaking ability out of a mandatory bilingual program prior to his sixth year of enrollment therein unless the child has received a score on said examination which, in the opinion of the department, reflects a level of English language skills which will enable him to perform successfully in regular classes appropriate for his age. If later evidence suggests that a child so transferred is still handicapped by an inadequate command of English, the child shall have the right to be reenrolled in the bilingual program for a length of time equal to that portion of the six-year period which remained at the time he was transferred. A school district may allow any child to continue in a bilingual program for a period longer than that required in this paragraph.

(b) The school district shall, to the fullest extent possible, enroll a substantial number of English-speaking children in bilingual programs, provided that priority shall be given to children of limited English-speaking ability.

(c) No later than 10 days after the enrollment of any child in a bilingual program, the school board of the district in which the child resides shall notify by registered mail the parents or legal guardian of the child of such enrollment. The notice shall contain a simple, non-technical description of the purposes, method, and content of the bilingual

program; it shall inform the parents that they have the right to visit the classes in which their child is enrolled and to come to the school for a conference to explain the nature of the bilingual program; and it shall inform the parents of their right to withdraw their child from the program as hereinafter provided.

(d) The notice shall be in writing both in English and in the language of which the child of the parents so notified possesses a primary speaking ability.

(e) Any parent whose child has been enrolled in a bilingual program shall have the right to withdraw his child from said program at any time by written notice to the principal of the school in which his child is enrolled or to the school board of the school district in which his child resides; provided, that school districts shall make affirmative efforts to encourage the continued participation of both English- and non-English-speaking children enrolled in bilingual programs.

16-54-6. Enrollment of Non-Resident Students.

A school may allow a non-resident child of limited English-speaking ability to enroll in or attend its bilingual program and the tuition for such child shall be paid by the school district in which he resides. Such tuition payments shall be eligible for reimbursement in the manner provided in Section 16-54-14.

16-54-7. Content of Programs and Methods of Instruction; Non-Verbal Courses and Extra-Curricular Activities; Location of Courses; Class Composition and Size.

(a) A bilingual program shall be a full-time program of instruction (1) in all subjects required by law or by the school district, which shall be given in the native language of the children of limited English-speaking ability who are enrolled in the program, and the English language; (2) in the comprehension, speaking, reading, and writing of the native language of the children of limited English-speaking ability who are enrolled in the program, and in the comprehension, speaking, reading and writing of the English language; and (3) in the history and culture associated with the native language of the children of limited English-speaking ability who are enrolled in the program, and in the history and culture of the United States.

(b) Bilingual programs shall be located in the regular public schools rather than in separate facilities; and no school district shall, in providing programs under this chapter, assign students to schools in a way which will have the effect of promoting segregation of students by race, color, or national origin. In predominantly non-verbal subjects, such as art, music, and physical education, children of limited English-speaking ability shall participate fully with their English-speaking contemporaries in the public school classes provided for said subjects. Every school district shall ensure to children enrolled in a bilingual program a meaningful opportunity to participate fully with other children in all extracurricular activities.

(c) Children enrolled in a bilingual program shall be placed in classes with children of approximately the same age and level of educational attainment. Children of widely disparate ages or educational levels shall not be combined in the same classroom except as approved by the department; and no such combination shall be approved unless it is necessary to avoid hardship to the district or to the children and is found to be educationally sound. If, in accordance with the above, children of different ages or educational levels are combined, the district so combining shall ensure that the instruction given each child is appropriate to his level of educational attainment, and school districts shall keep adequate records of the educational level and progress of each child enrolled in a program. The maximum student-teacher ratio shall be set by the department and shall reflect the special educational needs of children enrolled in bilingual programs.

16-54-8. Bilingual Education Teachers; Certificates; Exemption.

(a) The state board of regents for education (hereinafter, the board) shall grant permanent teaching certificates in bilingual education to persons who present the board with satisfactory evidence that they:

- (1) possess a speaking and reading ability in a language other than English, and communicative skills in English;
- (2) possess a bachelor's degree or other academic degree approved by the state board;
- (3) meet such requirements as to course of study and training as the board may prescribe, or possess such relevant experience as may be satisfactory to the board.

(b) The requirements of the general teacher certification law shall not apply to the board.

(c) For the purpose of certifying bilingual education teachers the board may approve

programs at colleges or universities devoted to the preparation of such teachers.

(d) A person holding a general teaching certificate who presents the board with satisfactory evidence of speaking and reading ability in a language other than English may be certified under this section.

(e) Any person certified under this section shall be eligible for employment by a school board as a teacher in a bilingual program in which the language for which he is certified is used as a medium of instruction. A school board may prescribe only such additional qualifications for teachers certified under this section as are approved by the board. Any local school board upon request may be exempted from the certification requirements of this section in the hiring of one or more bilingual education teachers for any school year in which compliance therewith would in the opinion of the department create a hardship in the district in the securing of such teachers.

(f) A bilingual education teacher serving under an exemption as provided in the preceding paragraph shall be granted a certificate as soon as he achieves the requisite qualifications therefor. Not more than two years of service by a bilingual education teacher under such an exemption shall be credited to the teacher for the purpose of the state tenure law, and said two years shall be deemed to precede immediately, and to be consecutive with, the year in which a teacher becomes certified.

(g) A teacher holding a certificate or exemption under this chapter shall be compensated according to a schedule which is at least equivalent to that applicable to teachers holding general certificates. No person shall be denied a certificate or exemption under this chapter or denied employment or tenure as a bilingual education teacher because he is not a United States citizen.

(h) A school district may, in circumstances to be prescribed by the department, employ in a bilingual program teachers holding certificates or exemptions under the general teacher certification law.

(i) In hiring teachers for a bilingual program who speak a language other than English, including certified teachers and teachers serving under exemptions, school districts shall give preference to, and make affirmative efforts to recruit, persons who are native-speakers of the language and share the culture of the children of limited English-speaking ability who are enrolled in the program.

(j) No rules or regulations for certification of bilingual education teachers shall be issued except after notice to the public and hearings at which any person may testify; further hearings shall be held, not less than once every two years, to review and, if appropriate, revise such rules or regulations.

16-54-9. Teachers' Aides - Community Coordinators.

(a) A bilingual education teacher's aide shall be a person employed to assist a teacher in a bilingual program. Each school board providing bilingual programs under this chapter shall employ such teachers' aides to assist in teaching the programs; provided, however, that at least half the teachers' aides assigned to each program shall be native-speakers of the language and share the culture of the children of limited English-speaking ability enrolled in the program.

(b) Any school board which conducts bilingual programs pursuant to this chapter shall employ, on a full- or part-time basis, one or more community coordinators for each program in which 100 or more children are enrolled. Community coordinators shall seek to promote communication, understanding, and cooperation between the public schools and the community, and shall visit the homes of children who are or could be enrolled in a bilingual program in order to convey information about the program. A coordinator shall be a native-speaker of the language and share the culture of the children of limited English-speaking ability enrolled in the program to which he is assigned.

(c) No person shall be denied employment as a bilingual education teacher's aide or community coordinator because he is not a United States citizen; nor shall the provisions of the state civil service law affect the hiring and employment of such aides or coordinators.

16-54-10. District-Directors.

The school board of any school district in which 200 or more children are enrolled in bilingual programs shall appoint a director of bilingual education for the district. The director shall be qualified as a bilingual education teacher and shall, under regulations prescribed by the department, supervise the operation of the district's programs. Districts shall make affirmative efforts to recruit directors who are native-speakers of a language other than English.

16-54-11. Parent and Community Participation.

(a) School board shall provide for the maximum practical involvement of parents of children enrolled in bilingual programs. Each school district shall, accordingly, establish a parent advisory committee for each program which affords parents the opportunity effectively to express their views and which ensures that a bilingual program is planned, operated, and evaluated with the involvement of, and in consultation with, parents of children served by the program. Such committees shall be composed solely of parents of children enrolled in bilingual programs, bilingual education teachers and teachers' aides, community coordinators, and representatives from poor peoples' community groups; provided, however, that a majority of each committee shall be parents of children enrolled in the corresponding bilingual program, and that the number of English-speaking and non-English-speaking parents shall reflect approximately the proportions of English-speaking and non-English-speaking students enrolled in the bilingual program.

(b) The department shall promulgate rules and regulations to implement the requirements of this section.

16-54-12. Preschool and Summer Bilingual Program.

A school district may establish on a full- or part-time basis preschool or summer school bilingual programs, or join with other school districts in establishing such programs. Summer programs shall not serve as a substitute for bilingual programs required to be provided during the regular school year.

16-54-13. Language Studies.

(a) Whenever in any junior or senior high school in the State 20 or more students who speak a language other than English apply for courses in the study of that language, the school board of the district shall provide such courses. The courses shall include instruction in the reading and writing of said language and study of the literature, history, and culture associated with said language. Any student in the school shall be eligible to participate in such courses.

(b) Any school board may also provide in its elementary schools courses for the study of a language other than English which is spoken by a portion of the community. Any child shall be eligible to participate in such courses; provided, however, that in no circumstances shall such language courses be employed as a substitute for the bilingual programs required by this chapter.

16-54-14. Reimbursement by the State.

(a) The expenditures by local school districts for the bilingual programs required or permitted under this chapter, including amounts expended for pre-service or in-service teacher training programs which are approved by the department, shall, for the amount by which they exceed the average per pupil expenditure of the school district for the education of children of comparable age, be reimbursed by the state.

(b) Every school district seeking reimbursement under this section shall submit a plan for bilingual education to the department before the beginning of each school year. The plan shall propose a bilingual education program or programs for the district and shall be in such form and shall set forth sufficient facts as the department finds necessary to determine whether the proposed program(s) conforms to the provisions of this chapter and the department's regulations hereunder. Nonconforming plans shall not be approved and shall be returned to the school district, with specification of the reasons for nonapproval, in such time as will allow the school district a reasonable opportunity to resubmit an amended plan. Approval of a plan shall be prerequisite to state reimbursement.

(c) Reimbursement shall be made upon certification by the department that bilingual programs have been carried out in accordance with the provisions of this chapter, the department's regulations hereunder, and approved plans submitted earlier by school districts. In the event that amounts certified by the department as eligible for reimbursement under this section exceed the available state funds therefor, reimbursement of approved programs shall be ratably reduced.

(d) Participating school districts shall keep such records and afford such access thereto as the department finds necessary to ensure that bilingual programs are implemented in conformity with approved plans, this chapter and regulations hereunder.

(e) All expenditures for bilingual programs, other than those actually reimbursed under this chapter, shall be included in computing the total expenditures of the school district for purposes of the general state aid to education laws.

16-54-15. Department of Education.

In addition to the powers and duties prescribed in previous sections of this chapter, the Department of Education shall promulgate rules and regulations and take any other actions which will promote the full implementation of all provisions of this chapter. A copy of the rules and regulations issued by the department shall be sent to all school districts in the State.

16-54-16. Division for Bilingual Education.

(a) There shall be established within the Department of Education a division for bilingual education which shall be headed by an assistant commissioner. The assistant commissioner shall be appointed by the board of education upon the recommendations of the commissioner of education, and shall report directly to the board and to the commissioner. In selecting an assistant commissioner preference shall be given to persons who are native-speakers of a language other than English in which bilingual programs are offered.

(b) The division for bilingual education shall be charged with the following duties;

(1) to assist the department in the administration and enforcement of the provisions of this chapter and in the formulation of the regulations provided for herein;

(2) to study, review, and evaluate all available resources and programs that, in whole or in part, are or could be directed towards meeting the language capability needs of children and adults of limited English-speaking ability resident in the State;

(3) to gather information about the theory and practice of bilingual education in the State and elsewhere, to encourage experimentation and innovation in the field of bilingual education, and to make a regular report to the Legislature, the Governor, and the public;

(4) to provide for the maximum practical involvement of parents of children of limited English-speaking ability, bilingual education teachers, teachers' aides, community coordinators, representatives of community groups, educators, and laymen knowledgeable in the field of bilingual education in the formulation of policy and procedures relating to the administration of this chapter;

(5) to consult with other public departments and agencies, including, but not limited to, the department of community affairs, the department of social and rehabilitative services, the department of employment security, the commission against discrimination, and the United States Department of Health, Education, and Welfare in connection with the administration of this chapter;

(6) to make recommendations to the department in the areas of pre-service and in-service training for bilingual education teachers, curriculum development, testing and testing mechanisms, and the development of materials for bilingual education programs; and

(7) to undertake any further activities which may assist the department in the full implementation of this chapter.

16-54-17. Effective Date -- Funding.

This chapter shall take effect only when funds of the federal government are made available to and accepted by the state department of education to carry out the purposes of this chapter on a continuing basis. (P.L. 1974, ch. 226, § 2.)

16-54-18. Unit for Bilingual-Bicultural Education -- State Advisory Council.

(a) There shall be established within the department of education a unit for bilingual-bicultural education which shall be headed by a coordinator who shall be appointed by the commissioner of education and said coordinator shall have the qualifications of a master's degree in bilingual-bicultural education, and shall have at least two (2) years of documented administrative experience in a bilingual-bicultural program. The commissioner of education shall file an annual report with the board of regents and the legislature.

(b) The unit for bilingual-bicultural education shall be charged with the following duties:

(1) to assist the department in the administration and enforcement of the provisions of this chapter and in the formulation of regulations provided for herein;

(2) to study, review and evaluate all available resources and programs that, in whole or in part, are or could be directed towards meeting the language capability needs of children and adults of non or limited English proficiency resident in the state;

(3) to gather information about the theory and practice of bilingual-bicultural education in the state and elsewhere, to encourage experimentation and innovation in the field of bilingual-bicultural education, and to make an annual report to the board of regents and the legislature;

(4) to provide for the maximum practical involvement of other public departments and

agencies relative to the needs of non or limited English proficiency within the state;

(5) to coordinate efforts within the state in the areas of pre-service and in-service training for bilingual-bicultural education, curriculum development, testing and testing mechanisms, and the development of materials for bilingual-bicultural education programs;

(6) a state advisory council shall be established by the department in accordance with department procedures as follows: the council shall be comprised of at least nineteen (19) members, all of whom shall be appointed by the commissioner of education and who are representative of the significant segments of the non or limited English proficiency population of the state; three (3) of whom shall be bilingual-bicultural/English as a second language (ESL) directors or coordinators (basic grants and support services); two (2) of whom shall be bilingual-bicultural/ESL parent representatives; one (1) of whom shall be a state educational agency/equal educational opportunity (SEA/EEO) representative; one (1) of whom shall be a superintendent or designee from a school district which has a bilingual-bicultural/ESL project; two (2) of whom shall be bilingual-bicultural teachers; two (2) of whom shall be bilingual-bicultural/ESL community representatives; two (2) of whom shall be special interest group representatives drawn from vocational education, special education, early childhood education or adult education. These representatives may be either parents and/or professionals in the field; one (1) of whom shall be a representative from those school districts within which there are fewer than twenty (20) children of non or limited English proficiency; two (2) of whom shall be high school students of non or limited English proficiency enrolled in a bilingual-bicultural program; one (1) of whom shall be an institute for higher education representative and two (2) of whom shall be legislative members. In appointing members to the state advisory council, the commissioner shall ensure equal access and opportunity for participation to all interested parties. Once established, the advisory council may recommend future members to the commissioner, who shall make appointments to the council. Each appointment shall be effective and each shall serve upon filing of his/her written acceptance with the department of education. All members of the state advisory council shall serve without compensation. (P.L. 1979, ch. 305, § 2.)

16-54-19. Appropriation -- Report to the general assembly.

For the fiscal year 1979-80, the sum of seventy-five thousand dollars (\$75,000) for an assessment of the number and needs of non-English speaking children is appropriated in addition to any funds already appropriated to the various school districts for bilingual-bicultural programs during the fiscal year 1979-80. The commissioner of education shall report the findings of the census herein contained to the general assembly on or before March 1, 1980. The report by the commissioner of education shall contain an estimate of the total amount necessary for the immediate full implementation of the bilingual-bicultural program, a listing of all school districts within the state in order of their need for said program together with the approximate cost to implement the program in each school district and a plan by the department of education for the gradual implementation of said program.

SOUTH CAROLINA

No statutory or constitutional provisions.

SOUTH DAKOTA

South Dakota Compiled Laws Annotated. Title 13 - Education.

Section 13-33-11.

Instruction in any school shall be such that it promotes a mastery of the English language in oral and written communication.

TENNESSEE

No statutory or constitutional provisions.

TEXAS

Texas Education Code, Subchapter L.

§ 21.451. State Policy

The legislature finds that there are large numbers of children in the state who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The legislature believes that a compensatory program of bilingual education can meet the needs of these children and facilitate their integration into the regular school curriculum. Therefore, pursuant to the policy of the state to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English-speaking ability, it is the purpose of this subchapter to provide for the establishment of bilingual education programs in the public schools and to provide supplemental financial assistance to help local school districts meet the extra costs of the programs. [Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.]

§ 21.452. Definitions

In this subchapter the following words have the indicated meanings:

- (1) "Agency" means the Central Education Agency.
- (2) "Board" means the governing board of a school district.
- (3) "Children of limited English-speaking ability" means children whose native tongue is a language other than English and who have difficulty performing ordinary classwork in English.

[Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.]

§ 21.453. Establishment of Bilingual Programs

(a) The governing board of each school district shall determine not later than the first day of March, under regulations prescribed by the State Board of Education, the number of school-age children of limited English-speaking ability within the district and shall classify them according to the language in which they possess a primary speaking ability.

(b) Each school district which has an enrollment of 20 or more children of limited English-speaking ability in any language classification in the same grade level during the preceding scholastic year, and which does not have a program of bilingual instruction which accomplishes the state policy of facilitating integration into the regular school curriculum as set out in Section 21.451 of this article, shall institute a program of bilingual instruction for the children in each language classification in kindergarten, first grade, and second grade by the 1975-76 school year and also in the third grade by the 1976-77 school year. Bilingual instruction may be offered in the fourth and fifth grades for students who have not progressed sufficiently to participate in the regular school curriculum. Any bilingual program beyond the fifth grade shall be at the expense of the respective local school district. The board may establish a program with respect to a language classification with less than 20 children.

[Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 897, ch. 334, § 6, eff. Sept. 1, 1975.]

§ 21.454. Program Content; Method of Instruction

(a) The bilingual education program established by a school district shall be a full-time program of instruction (1) in all subjects required by law or by the school district, which shall be given in the native language of the children of limited English-speaking ability who are enrolled in the program, and in the English language; (2) in the comprehension, speaking, reading, and writing of the native language of the children of limited English-speaking ability who are enrolled in the program, and in the comprehension, speaking, reading, and writing of the English language; and (3) in the history and culture associated with the native language of the children of limited English-speaking ability who are enrolled in the program, and in the history and culture of the United States.

(b) In predominantly nonverbal subjects, such as art, music, and physical education,

children of limited English-speaking ability shall participate fully with their English-speaking contemporaries in regular classes provided in the subjects.

(c) Elective courses included in the curriculum may be taught in a language other than English.

(d) Each school district shall insure to children enrolled in the program a meaningful opportunity to participate fully with other children in all extracurricular activities.

[Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.]

§ 21.455. Enrollment of Children in Program

(a) Every school-age child of limited English-speaking ability residing within a school district required to provide a bilingual program for his classification shall be enrolled in the program for a period of three years or until he achieves a level of English language proficiency which will enable him to perform successfully in classes in which instruction is given only in English, whichever first occurs.

(b) A child of limited English-speaking ability enrolled in a program of bilingual education may continue in that program for a period longer than three years with the approval of the school district and the child's parents or legal guardian.

(c) No school district may transfer a child of limited English-speaking ability out of a program in bilingual education prior to his third year of enrollment in the program unless the parents of the child approve the transfer in writing, and unless the child has received a score on an examination which, in the determination of the agency, reflects a level of English language skills appropriate to his or her grade level. If later evidence suggests that a child who has been transferred is still handicapped by an inadequate command of English, he may be re-enrolled in the program for a length of time equal to that which remained at the time he was transferred.

(d) No later than 10 days after the enrollment of a child in a program in bilingual education the school district shall notify the parents or legal guardian of the child that the child has been enrolled in the program. The notice shall be in writing in English, and in the language of which the child of the parents possesses a primary speaking ability. [Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.]

§ 21.456. Facilities; Classes

(a) Programs in bilingual education, whenever possible, shall be located in the regular public schools of the district rather than in separate facilities.

(b) Children enrolled in the program, whenever possible, shall be placed in classes with other children of approximately the same age and level of educational attainment. If children of different age groups or educational levels are combined, the school district shall insure that the instruction given each child is appropriate to his or her level of educational attainment, and the district shall keep adequate records of the educational level and progress of each child enrolled in the program.

(c) The maximum student-teacher ratio shall be set by the agency and shall reflect the special educational needs of children enrolled in programs of bilingual education.

[Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.]

§ 21.457. Cooperation Among Districts

(a) A school district may join with any other district or districts to provide the programs in bilingual education required or permitted by this subchapter. The availability of the programs shall be publicized throughout the affected districts.

(b) A school district may allow a nonresident child of limited English-speaking ability to enroll in or attend its program in bilingual education, and the tuition for the child shall be paid by the district in which the child resides.

[Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.]

§ 21.458. Preschool and Summer School Programs

A school district may establish on a full- or part-time basis preschool or summer school programs in bilingual education for children of limited English-speaking ability and may join with other districts in establishing the programs. The preschool or summer programs shall not be a substitute for programs required to be provided during the regular school year.

[Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.]

§ 21.459. Bilingual Education Teachers

(a) The State Board of Education shall promulgate rules and regulations governing the issuance of teaching certificates with bilingual education endorsements to teachers who possess a speaking and reading ability in a language other than English in which bilingual education programs are offered and who meet the general requirements set out in Chapter 13 of this code. [Section 13.01 et seq.]

(b) The minimum monthly base pay and increments for teaching experience for a bilingual education teacher are the same as for a classroom teacher with an equivalent degree under the Texas State Public Education Compensation Plan. The minimum annual salary for a bilingual education teacher is the monthly base salary, plus increments, multiplied by 10, 11, or 12, as applicable.

[Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.]

§ 21.460. Allotments for Operational Expenses and Transportation

(a) To each school district operating an approved bilingual education program there shall be allotted a special allowance in an amount to be determined by the agency for pupil evaluation, books, instructional media, and other supplies required for quality instruction.

(b) The cost of transporting bilingual education students from one campus to another within a district or from a sending district to an area vocational school or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the Central Education Agency.

(c) The Foundation School Fund Budget Committee shall consider all amounts required for the operation of bilingual education programs in estimating the funds needed for purposes of the Foundation School Program.

(d) The cost of funding this Act shall, for fiscal years 1974 and 1975, be maintained at the level contained in House Bill 139, 63rd Legislature, Regular Session, 1973.

[Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.]

[Sections 21.461 to 21.480 reserved for expansion.]

UTAH

Utah Code Annotated. Title 53 - Public Schools.

53-7-18. State contribution toward basic program--Minimum basic levy of school district--Contributions for programs in experiment and development inservice training activities, textbooks and supplies, laboratory school at Utah State University, elementary music, gifted and talented students, responsible parenthood, bilingual education, reduction in pupil-teacher ratio, insurance and former handicapped students.--

...(6) The state's contribution of \$499,500 for bilingual education programs shall be allocated to each school district for programs for pupils with bilingual needs based upon the number of pupils with bilingual needs in the district claiming entitlement bears to the total number of such pupils in all districts.

Note: The State Board of Education's "Standards and Guidelines for Bilingual Education" defines terms and describes procedures.

VERMONT

No statutory or constitutional provisions.

VIRGINIA

No statutory or constitutional provisions.

WASHINGTON

Revised Code of Washington Annotated. Title 28A - Common School Provisions.

28A.05.015.

All students in the common schools of the state of Washington shall be taught in the English language: provided, that nothing in this section shall preclude the teaching of students in a language other than English when such instruction will aid the educational advancement of the student.

Chapter 95, Laws of 1979 - Substitute Senate Bill No. 2149

AN ACT Relating to education; providing for bilingual instruction in the common schools; creating new sections; adding new sections to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW, and making effective dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. This act shall be known and cited as "The Transitional Bilingual Instruction Act of 1979". The legislature finds that there are large numbers of children who come from homes where the primary language is other than English. Experience has shown that classes which are taught in English are inadequate to meet the needs of these children. The legislature finds that a bilingual education program can meet the needs of these children. Pursuant to the policy of this state to insure equal educational opportunity to every child in this state, it is the purpose of this act to provide for the implementation of bilingual education programs in the public schools, and to provide supplemental financial assistance to help local school districts to meet the extra costs of these programs.

NEW SECTION. Sec. 2. As used in this act, unless the context thereof indicates to the contrary:

(1) "Transitional bilingual instruction" means a system of instruction which uses two languages, one of which is English, as a means of instruction to build upon and expand language skills to enable the pupil to achieve competency in English. Concepts and information are introduced in the primary language and reinforced in the second language: PROVIDED, that the program shall include testing in the subject matter in English.

(2) "Primary language" means the language most often used by the student for communication in his/her home.

(3) "Eligible pupil" means any enrollee of the school district whose primary language is other than English and whose English language skills are sufficiently deficient or absent to impair learning when taught only in English, but shall not include pupils who are equally or almost equally competent in English and other languages.

NEW SECTION. Sec. 3. Every school district board of directors shall:

(1) Make available to each eligible pupil bilingual instruction in accord with rules of the superintendent of public instruction: PROVIDED, That such rules shall provide that any school district with a limited number of pupils of the same non-English dominant language shall not be required to activate a new bilingual program but may carry on an alternative instructional program utilizing resources available to the district.

(2) Wherever feasible, ensure that communications to parents emanating from the schools shall be appropriately bilingual for those parents of pupils in the bilingual instruction program.

(3) Annually determine by administration of a test approved by the superintendent of public instruction the number of eligible pupils enrolled in the school district.

(4) Provide in-service training for all teachers, counselors, and other staff, who are involved in bilingual education within the district. Such training shall include appropriate instructional strategies for children of culturally different backgrounds, use of curriculum materials, and bilingual program models.

NEW SECTION. Sec. 4. Every school district board of directors may appoint, maintain, and receive recommendations from an advisory committee of persons including parents whose children are in the bilingual instruction program and bilingual teachers and other staff members.

NEW SECTION. Sec. 5. The superintendent of public instruction shall prepare and issue prior to September, 1979, program development guidelines to assist school districts in preparing their programs. Rules for implementation of this bilingual instruction act shall be

promulgated by the superintendent of public instruction in accordance with chapter 34.04 RCW no later than May 15, 1980.

NEW SECTION. Sec. 6. The superintendent of public instruction shall prepare and submit biennially to the governor and the legislature a budget request for bilingual instruction programs. Moneys appropriated by the legislature for the purposes of this act shall be allocated by the superintendent of public instruction to school districts for the sole purpose of operating an approved bilingual instruction program; priorities for funding shall exist for the early elementary grades. No moneys shall be allocated pursuant to this section to fund more than three school years of bilingual instruction for each eligible pupil within a district: PROVIDED, That such moneys may be allocated to fund more than three school years of bilingual instruction for any pupil who fails to demonstrate improvement in English language skills adequate to remove impairment of learning when taught only in English. The superintendent of public instruction shall set standards and approve a test for the measurement of such English language skills. School districts are hereby empowered to accept grants, gifts, donations, devices and other gratuities from private and public sources to aid in accomplishing the purposes of sections 1 through 6 of this act.

NEW SECTION. Sec. 7. Section 3 of this act shall take effect September 1, 1980.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act are added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW.

NEW SECTION. Sec. 9. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

WEST VIRGINIA

West Virginia Code. Chapter 18 - Education.

18-2-7.

The basic language of instruction in the common school branches in all schools, public, private, and parochial, shall be the English language only.

WISCONSIN

Wisconsin Statutes Annotated. Title XIV - Public Instruction

115.95 Legislative findings and declaration of policy

(1) The legislature finds that:

(a) There are pupils in this state who enter elementary and secondary school within limited or nonexistent English speaking ability due to the use of another language in their family or in their daily, nonschool environment.

(b) Classes conducted in English do not always provide adequate instruction for children whose English language abilities are limited or nonexistent.

(c) It is beneficial to pupils from bicultural and monocultural backgrounds to participate in bilingual-bicultural programs where such programs are available in order to instill respect for non-English languages and cultures in all pupils.

(2) It is the policy of this state to provide equal educational opportunities by ensuring that necessary programs are available for limited-English speaking pupils while allowing each school district maximum flexibility in establishing programs suited to its particular needs. To this end, this subchapter creates a required minimal program and an optional expanded program for pupils in school districts with specified concentrations of limited-English speaking pupils while allowing each school district maximum flexibility in establishing programs suited to its particular needs. To this end, this subchapter creates a required minimal program and an optional expanded program for pupils in school districts with specified concentrations of limited-English speaking pupils in the attendance areas of particular schools.

(3) It is the policy of this state to reimburse school districts, in substantial part, for the added costs of providing the basic or optional expanded programs established under this subchapter.

(4) It is the policy of this state that a limited-English speaking pupil participate in a bilingual-bicultural education program only until such time as the pupil is able to

perform ordinary classwork in English.

(5) It is the policy of this state that fundamental courses may be taught in the pupil's non-English language to support the understanding of concepts, while the ultimate objective shall be to provide a proficiency in those courses in the English language in order that the pupil will be able to participate fully in a society whose language is English.

(6) Furthermore, it is the policy of this state to encourage reform, innovation and improvement in graduate education, in the structure of the academic profession and in the recruitment and retention of higher education and graduate school faculties, as related to bilingual-bicultural education, and to give special recognition to persons who possess a reading ability and speaking fluency in a non-English language and an understanding of another culture.

115.955 Definitions

In this subchapter:

(1) "Limited-English speaking pupil" means a pupil whose ability to use the English language is limited because of the use of a non-English language in his or her family or in his or her daily, nonschool surroundings, and who has difficulty, as defined by rule by the state superintendent, in performing ordinary classwork in English as a result of such limited English language ability.

(2) "Bilingual teacher" means a certified teacher approved by the state superintendent under s. 115.28 (15)(a).

(3) "Bilingual counselor" means a certified teacher approved by the state superintendent under s. 115.28 (15)(a).

(4) "Bilingual teacher's aide" means a person who is employed to assist a teacher and who is approved by the state superintendent under s. 115.28 (15)(a).

(5) "Bilingual counselor's aide" means a person who is employed to assist a counselor and who is approved by the state superintendent under s. 115.28 (15)(a).

(6) "Bilingual-bicultural education program" means a basic program or an optional expanded program, as defined by the state superintendent by rule under s. 115.28 (15)(b), designed to improve the comprehension and the speaking, reading and writing ability of a limited-English speaking pupil in the English language, so that the pupil will be able to perform ordinary classwork in English.

(7) "Basic program" means a program which provides the following:

(a) Instruction in reading, writing and speaking the English language; and

(b) In grades K-8 through the use of the native language of the limited-English speaking pupil, instruction in the subjects necessary to permit the pupil to progress effectively through the educational system.

(8) "Optional expanded program" means a program which provides the following:

(a) Instruction in reading, writing and speaking the English language; and

(b) Instruction at all grade levels, through the use of the native language of the limited-English speaking pupil, in the subjects necessary to permit the pupil to progress effectively through the educational system.

115.96 Establishment of programs

(1) Count of limited-English speaking pupils. Annually, on or before March 1, each school board shall conduct a count of the limited-English speaking pupils in the public schools of the district, assess the language proficiency of such pupils and classify such pupils by language group, grade level, age and English language proficiency.

(2) Notification. Annually, on or before April 1, a school board which may be required to offer a bilingual-bicultural education program shall send to the parent or legal custodian of every limited-English speaking pupil identified under sub. (1) who is eligible for participation in such a program, a notice which states that a bilingual-bicultural education program may be instituted, contains information on the procedures for registering a pupil in such a program, and provides notice of the consent required under sub. (3). The notice shall be in English and in the non-English language of each bilingual-bicultural education program.

(3) Parental consent. On or before May 1, any parent or legal custodian desiring that their child be placed in a bilingual-bicultural education program shall give written consent to such child's placement.

(4) Program established. Annually, on or before July 1, the school board shall establish a bilingual-bicultural education program, if required under s. 115.97.

(5) Placement; appeal. (a) By the commencement of the school term, the school board shall place, with the parent's or legal custodian's written consent, each limited-English speaking pupil in the appropriate bilingual-bicultural education program established under this subchapter. If a limited-English speaking pupil is identified after March 1 or the parent or legal custodian of such child gives consent after May 1, the school board shall place the pupil, with the written consent of the pupil's parent or legal custodian, in an appropriate program where feasible.

(b) A parent or legal custodian may appeal the school board's failure to place the pupil in the bilingual-bicultural education program established for the pupil in the pupil's language group by filing a notice of appeal with the clerk of the school district within 10 days after the commencement of the school term. The school board shall provide for a hearing on the question of placement within 20 days after receipt of the notice of appeal and shall take a written record of the proceedings. The cost of taking the record shall be the responsibility of the school board. The parent or legal custodian may request a public or private hearing. Within 10 days after the hearing, the school board shall make a decision on the question of placement. If the parent or legal custodian is not satisfied with the decision of the school board, the parent or legal custodian may, within 10 days after the school board's decision, file a notice of appeal with the state superintendent. If the parent or legal custodian appeals, the parent or legal custodian shall assume the cost of transcribing the record. Within 10 days after receipt of the notice of appeal from the determination of the school board, the state superintendent shall issue a decision based on the hearing record. If the parent or legal custodian prevails, the school board shall reimburse the parent or legal custodian for the cost of transcribing the record.

115.97 Bilingual-bicultural education programs required

(1) If a school board is required to establish a bilingual-bicultural education program under sub. (2), (3) or (4), the school board may adopt either a basic or expanded program. A school board may combine pupils in attendance at separate schools in its bilingual-bicultural education program. The school board shall be eligible for state aids under s. 115.995 if the number of limited-English speaking pupils served from the combined schools meets the requirements under sub. (2), (3) or (4). A pupil shall be eligible for bilingual-bicultural education program only until he or she is able to perform ordinary classwork in English. The bilingual-bicultural education program shall be designed to provide intensive instruction to meet this objective. Nothing in this subchapter shall be construed to authorize isolation of children of limited-English speaking ability or ethnic background for a substantial portion of the school day. Pupils who are not limited-English speaking pupils may participate in a bilingual-bicultural education program, except that a school board shall give preference to limited-English speaking pupils in admitting pupils to such a program.

(2) If, in a language group under s. 115.96(1), there are 10 or more limited-English speaking pupils in kindergarten to grade 3 in attendance at a particular elementary school and whose parents or legal custodians give written consent to such pupils' placement under s. 115.96(3), the school board shall establish a bilingual-bicultural education program for such pupils during the school term. Such program shall be taught by a bilingual teacher.

(3) If, in a language group under s. 115.96(1), there are 20 or more limited-English speaking pupils in grades 4 to 8 in attendance at a particular elementary, middle or junior high school and whose parents or legal custodians give written consent to such pupils' placement under s. 115.96(3), the school board shall establish a bilingual-bicultural education program for such pupils during the school term. Such program shall be taught by a bilingual teacher.

(4) If, in a language group under s. 115.96(1), there are 20 or more limited-English speaking pupils in grades 9 to 12 in attendance at a particular high school and whose parents or legal custodians give written consent to the pupils' placement under s. 115.96(3), the school board shall establish a bilingual-bicultural education program. The program shall be taught by a bilingual teacher. Bilingual counselors shall be made available.

115.977 Personnel; contracting; continued eligibility

(2) A school district may establish bilingual-bicultural education programs by

contracting with other school districts or with a cooperative educational service agency. If 10 or more pupils in kindergarten to grade 3, 20 or more in grades 4 to 8 or 20 or more in a high school program are enrolled in a program under a contract pursuant to this subsection, the school district offering the program is eligible for reimbursement under s. 115.995.

(3) The school board shall give any limited-English speaking pupil who has begun a bilingual-bicultural education program in the 3rd grade the opportunity to continue his or her bilingual-bicultural education program in the 4th grade regardless of the number of limited-English speaking pupils in grades 4 to 8. However, if there are not a sufficient number of limited-English speaking pupils in grades 4 to 8 to require a bilingual-bicultural education program under sub. (2), the school board may offer such pupil the opportunity to continue a bilingual-bicultural education program with a program established for limited-English speaking pupils in kindergarten to grade 3. A 4th grade pupil so enrolled may be counted for purposes of determining if there are a sufficient number of pupils for a kindergarten to grade 3 bilingual-bicultural education program.

115.98 Bilingual-bicultural advisory committee

In each school district which establishes a bilingual-bicultural education program under this subchapter, the school board may appoint a bilingual-bicultural advisory committee to afford parents and educators of limited-English speaking pupils the opportunity to advise the school board of their views and to ensure that a program is planned, operated and evaluated with their involvement and consultation. The committee shall assist the school board in informing educators, parents and legal custodians of limited-English speaking pupils that a program exists. The committee shall be composed of parents of limited-English speaking pupils enrolled in the bilingual-bicultural education program, bilingual and other teachers, bilingual teacher's aides, bilingual and other counselors and bilingual counselor's aides in the district, at least one representative from the community and a representative of the school district administration.

115.99 Preschool and summer school programs

A school board may establish a full-time or part-time preschool or summer bilingual-bicultural education program according to rules established by the state superintendent.

115.991 Training programs

The school board may institute preservice or in-service programs designed to improve the skills of bilingual teachers, bilingual teachers' aides, bilingual counselors, bilingual counselors' aides or other personnel participating in, or preparing to participate in, a bilingual-bicultural education program.

115.993 Report on bilingual-bicultural education

Annually, on or before August 15, the school board of a district operating a bilingual-bicultural education program under this subchapter shall report to the state superintendent the number of pupils, including both limited-English speaking pupils and other pupils, instructed the previous school year in bilingual-bicultural education programs, an itemized statement on oath of all disbursements on account of the bilingual-bicultural education program operated during the previous school year and a copy of the estimated budget for that program for the current school year.

115.995 State aids

(1) Any school district operating a bilingual-bicultural education program during the school year under this subchapter is eligible to receive state aid equal to 70% of the amount expended on limited-English speaking pupils by the district during the preceding year for salaries of personnel participating in and attributable to bilingual-bicultural education programs under this subchapter, special books and equipment used in the bilingual-bicultural education programs and other expenses approved by the state superintendent.

(2) If, upon receipt of the report under s. 115.993, the state superintendent is satisfied that the bilingual-bicultural education program for the previous school year was maintained in accordance with this subchapter, the state superintendent shall certify to

the department of administration in favor of the school district a sum equal to the state aids for which the school district is eligible under sub.(1).

115.996 Report to the legislature

Annually, on or before December 31, the state superintendent shall report to the legislature on the status of bilingual-bicultural education programs established under this subchapter. The report shall include the number of pupils served in basic and optional expanded programs for each language group in each school district in which such programs are offered and the cost of the program per pupil for each school district, language group and program type. The department shall also provide the number of pupils in each school district and language group who as a result of bilingual-bicultural education program improved their English language ability to such an extent that the program is no longer necessary for such pupils.

WYOMING

No statutory or constitutional provisions.

Summary of State Provisions

State	Type of Statute				
	PROHIBITORY P/NP	P	NO PROVISIONS	PERMISSIVE	MANDATORY
ALABAMA	X				
ALASKA					X
ARIZONA				X	
ARKANSAS	X				
CALIFORNIA					X
COLORADO					X
CONNECTICUT					X
DELAWARE		X ¹			
FLORIDA				X	
GEORGIA			X		
HAWAII			X*		
IDAHO				X	
ILLINOIS					X
INDIANA				X	
IOWA				X	
KANSAS				X	
KENTUCKY			X		
LOUISIANA				X	
MAINE				X	
MARYLAND				X	
MASSACHUSETTS					X
MICHIGAN					X
MINNESOTA				X	
MISSISSIPPI			X		
MISSOURI			X		
MONTANA			X		
NEBRASKA	X				
NEVADA			X		
NEW HAMPSHIRE				X	
NEW JERSEY					X
NEW MEXICO				X	
NEW YORK				X	
NORTH CAROLINA	X ²				
NORTH DAKOTA			X		
OHIO				X	
OKLAHOMA		X*			
OREGON				X	
PENNSYLVANIA				X*	
RHODE ISLAND					X
SOUTH CAROLINA			X		
SOUTH DAKOTA				X	
TENNESSEE			X		
TEXAS					X
UTAH				X	
VERMONT			X		
VIRGINIA			X		
WASHINGTON				X	
WEST VIRGINIA	X				
WISCONSIN					X
WYOMING			X		

¹Prohibitory in only the elementary grades.

²Unclear as to schools (public/nonpublic) affected.

*See state's entry for nonstatutory regulations and rulings.

Terms Used

- PROHIBITORY -- The jurisdiction has a provision which requires that instruction be exclusively in English
- P/NP -- Refers to both public and non-public schools
- P -- Refers to public schools only
- NO PROVISIONS -- The jurisdiction has no provisions specifying any language of instruction
- PERMISSIVE -- The jurisdiction has a provision which expressly or implicitly permits the use of a language of instruction other than English
- MANDATORY -- The jurisdiction has a provision which identifies circumstances under which a local school district must provide instructional programs employing a language other than English

**Bilingual
Education
Series:**

